NOTICE TO THE BAR

MULTICOUNTY LITIGATION (MCL) – PROPOSED CONCLUSION OF MULTICOUNTY LITIGATION (MCL) DESIGNATION OF THE RISPERDAL, SEROQUEL, AND ZYPREXA LITIGATION

By Order of September 11, 2006, the Supreme Court designated all New Jersey state court litigation involving Risperdal, Seroquel, and Zyprexa as a mass tort (now multicounty litigation (MCL)) and assigned it to Middlesex County Superior Court for handling by the then mass tort judge in that vicinage. The litigation is presently assigned to Superior Court Judge Bruce Kaplan. Judge Kaplan has reported to the Administrative Director of the Courts that with the exception of one case, all remaining active cases have been resolved and that the MCL designation of the Risperdal, Seroquel, and Zyprexa litigation therefore should be concluded.

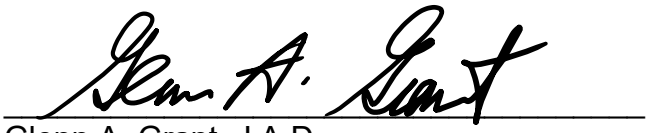
In accordance with the provisions of Court Rule 4:38A and Directive #02-19, "Multicounty Litigation Guidelines and Criteria for Designation (Revised)," this Notice therefore is to advise of the proposed conclusion of the MCL designation of the New Jersey state-court Risperdal, Seroquel, and Zyprexa Litigation.

Anyone wishing to comment on or object to this application should provide such comments or objections in writing, with relevant supporting documentation, by **July 23, 2021** to:

Hon. Glenn A. Grant
Acting Administrative Director of the Courts
Attention: Proposed Conclusion of Risperdal, Seroquel, and Zyprexa MCL
Hughes Justice Complex, P.O. Box 037
Trenton, New Jersey 08625-0037

Comments/objections also may be sent by email to Comments.mailbox@njcourts.gov.

A copy of the Judge Kaplan's report and recommendation is posted with this Notice on the Judiciary website at www.njcourts.gov in the Multicounty Litigation Information Center (http://www.njcourts.gov/attorneys/mcl/index.html).



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: June 21, 2021

IN RE RISPERDAL/ SEROQUEL/ZYPREXA LITIGATION	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY CASE NO.: 274

DECENTRALIZATION REPORT

The purpose of this Court's report is to request termination of the centralized management of the Risperdal/Seroquel/Zyprexa litigation in Middlesex County. The Risperdal/Seroquel/Zyprexa litigation was originally designated as a mass tort in October 2006, with approximately 638 cases filed. As set forth below, with the exception of one remaining case filed against Janssen Pharmaceuticals, Inc., by a *pro se* Plaintiff in 2014, all other cases in this Multi-County Litigation ("MCL") have been resolved.

I. ZYPREXA

Zyprexa is the product of Eli Lilly and Company. Zyprexa was first approved by the Food and Drug Administration ("FDA") in 1996 and is an atypical antipsychotic drug indicated for the treatment of, amongst other things, schizophrenia, acute treatment of manic or mixed episodes associated with Bipolar I Disorder and for the maintenance treatment of Bipolar I Disorder.

Plaintiffs in this MCL filed suit against Eli Lilly and Company, alleging various claims of strict products liability, breach of express and implied warranties, violations of the New Jersey Consumer Fraud Act, negligent misrepresentation, fraudulent misrepresentation, loss of consortium, wrongful death and punitive damages.

Plaintiffs generally alleged that Eli Lilly and Company failed to adequately warn of the alleged increased risk of diabetes mellitus and related conditions, including hyperglycemia, ketosis, diabetic acidosis and diabetic coma in patients that use Zyprexa. In total, approximately 275 cases were filed against Eli Lilly and Company and were consolidated in this MCL.

Most activity in this MCL did not involve Zyprexa cases because many Zyprexa cases were subject to settlement agreements by 2007, when discovery was first scheduled to begin in this MCL. Specifically, most cases were resolved and dismissed pursuant to inventory settlements in June 2005, January 2007, and February 2008. In 2015, one (1) Zyprexa case remained in this MCL, filed by *pro se* Plaintiff Mary Scott. This Honorable Court granted Eli Lilly and Company's motion for summary judgment, which was affirmed by the Appellate Division in May 2016. Accordingly, this MCL has been dormant as to Eli Lilly and Company for years.

Moreover, substantial discovery had already occurred in the *In re Zyprexa Products Liability Litigation* (MDL 1596) in the Eastern District of New York, and counsel in this MCL was permitted to obtain the discovery from the Multi-District Litigation ("MDL"). As of 2018, the Zyprexa MDL was terminated.

As a result of the foregoing, no Zyprexa Plaintiffs were among the bellwether trial selections as the MCL advanced. **As noted, there are no Zyprexa cases remaining.**

II. SEROQUEL

Seroquel is the product of AstraZeneca Pharmaceuticals, L.P. ("AstraZeneca"). Seroquel was first approved by the FDA in 1997 and is an atypical antipsychotic drug indicated for the treatment of schizophrenia, acute treatment of manic or mixed episodes associated with Bipolar I Disorder, acute treatment of depressive episodes associated with bipolar disorder, amongst other things.

Plaintiffs in this MCL filed suit against AstraZeneca alleging various claims, such as negligence, strict product liability, breach of express and implied warranties, and violations of the New Jersey Consumer Fraud Act, negligent misrepresentation, fraudulent misrepresentation, loss of consortium, wrongful death and punitive damages.

Plaintiffs generally alleged that the use of Seroquel caused injuries such as diabetes mellitus, hyperglycemia, weight gain, and various movement disorders such as tardive dyskinesia and extrapyramidal syndrome.

In February 2009, the MDL in the United States District Court for the Middle District of Florida granted AstraZeneca summary judgment in the first two MDL bellwether cases after excluding Plaintiffs' causation experts. Thereafter, the focus of the Seroquel litigation shifted to coordinated proceedings in Delaware; in June 2009, the Delaware Court granted AstraZeneca summary judgment in the first Delaware bellwether case and then again in the next two Delaware cases in March 2010, dismissing all cases pending in Delaware. On March 18, 2010, a Seroquel case, Ted Baker v. AstraZeneca Pharmaceuticals, L.P. (1099-07), was tried and resulted in a defense verdict. Specifically, AstraZeneca was found to have adequately provided warnings to plaintiff's prescribing physicians regarding the risk of diabetes from Seroquel.

A review of this Honorable Court's Case Management Orders show that the vast majority of Seroquel cases were resolved or dismissed. For example, on May 8, 2008, the Honorable Jamie D. Happas, P.J.Civ. (Ret.) dismissed the claims of 174 plaintiffs with prejudice. Thereafter, between November 2011 and May 2012, AstraZeneca was further dismissed with prejudice from hundreds of cases. Upon information and belief, the last Seroquel cases were dismissed sometime in 2016. **There are no Seroquel cases remaining.**

III. RISPERDAL

Risperdal is the product of Janssen Pharmaceuticals, Inc., a wholly owned subsidiary of Johnson & Johnson. Risperdal was first approved by the FDA in 1993 and is an atypical antipsychotic drug indicated for the treatment of schizophrenia, acute manic or mixed episodes associated with Bipolar I Disorder and for irritability associated with autistic disorder.

Plaintiffs in this MCL filed suit against Janssen Pharmaceuticals, Inc., alleging various claims, such as negligence, strict product liability, breach of express and implied warranties, and violations of the New Jersey Consumer Fraud Act, negligent misrepresentation, fraudulent misrepresentation, loss of consortium, wrongful death and punitive damages.

Plaintiffs generally alleged that the use of Risperdal caused injuries such as diabetes mellitus, hyperglycemia, weight gain, and various movement disorders such as tardive dyskinesia and extrapyramidal syndrome.

The Court notes the following litigation milestones with regards to Risperdal:

- **February 2012**: Gary Skala v. Janssen Pharmaceuticals, Inc. (L-6820-06), a case alleging development of diabetes from taking Risperdal, was tried and resulted in a defense verdict.
- **Between 2012-2014:** After the defense verdict, the vast majority of Risperdal cases pending before this Court were resolved by dismissal or settlements.
- **July 2014:** Honorable Jessica Mayer, J.A.D., granted summary judgment in favor of defense in a case alleging gynecomastia and tardive dyskinesia, finding Risperdal's 2006 warning label adequate as a matter of law regarding these alleged injuries.
- **June 16, 2015:** Risperdal Case Management Conference held before Honorable Jessica Mayer, J.A.D., where Judge Mayer advised that de-designating the mass tort was under consideration, with two cases remaining at the time – Lywanda Looney and Harvey Short – both *pro se* plaintiffs.
- **May 2016:** Looney matter was dismissed; Harvey Short matter is the last case remaining.
- **May 2, 2019:** Honorable James F. Hyland, J.S.C. (Ret.) issued Order advising that, on July 1, 2019, Harvey Short's Complaint would be dismissed for lack of prosecution.
- **July 1, 2019:** Harvey Short filed a Motion to Schedule a Jury Trial, which was denied on August 21, 2019.
- **May 11, 2021:** Last Case Management Conference held with counsel for Janssen Pharmaceuticals, Inc. This Honorable Court expended significant efforts to locate and notify Harvey Short of the Case Management Conference and notified that failure to appear may result in the dismissal of this case. However, Harvey Short did not appear.
- **May 19, 2021:** This Honorable Court entered a discovery schedule Order which was electronically filed and served upon Harvey Short by regular and certified mail. **To date, this is the only case remaining.**
- **June 22, 2021:** Next Case Management Conference in the Harvey Short matter.

IV. CONCLUSION

All cases in this MCL, with the exception of one, have been resolved. It is the Court's intent to continue to case manage and preside over the Short matter until conclusion, however, the Court can do so independent of the MCL. Therefore, the Court respectfully suggests that decentralization is appropriate.