

NOTICE TO THE BAR

MULTICOUNTY LITIGATION APPLICATION -- NEW JERSEY STATE COURT LITIGATION INVOLVING PROLENE HERNIA SYSTEM MESH

The Supreme Court has received an application pursuant to Directive #02-19, "Multicounty Litigation Guidelines and Criteria for Designation (Revised)," for Multicounty Litigation (MCL) designation of New Jersey state-court litigation alleging injuries as a result of use of the Prolene Hernia System (PHS) Mesh. PHS Mesh is an implantable prosthetic device used to repair inguinal and abdominal wall hernia defects.

The MCL application was submitted by counsel for plaintiffs. The application requests that if the designation is approved, the MCL be assigned to Atlantic County. Defendants in the cases are Johnson and Johnson and Ethicon, Inc.

Anyone wishing to comment on or object to this application should provide such comments or objections in writing, with relevant supporting documentation, by **November 15, 2019 to:**

Hon. Glenn A. Grant
Acting Administrative Director of the Courts
Attention: MCL Application – Prolene Hernia System Mesh
Hughes Justice Complex, P.O. Box 037
Trenton, New Jersey 08625-0037

Comments or objections may also be submitted by email to Comments.mailbox@njcourts.gov.

A copy of the application submitted to the Court is posted with this Notice on the Judiciary's Internet Website at (www.njcourts.gov) in the Multicounty Litigation Information Center <https://www.njcourts.gov/attorneys/mcl/index.html>



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

Dated: October 1, 2019

CIVIL

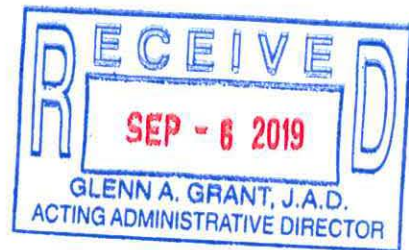
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September 6, 2019

VIA HAND DELIVERY

The Hon. Glenn A. Grant, J.A.D.
Administrative Director of the Courts
Administrative Office of the Courts
of the State of New Jersey
Richard J. Hughes Justice Complex
25 W. Market Street
Trenton, New Jersey 08625

Re: Application Pursuant to R. 4:38A (“Centralized Management of Multicounty Litigation”) Request for Multi-County Litigation Designation for Prolene Hernia System Mesh

Dear Judge Grant:

The undersigned counsel submits this letter on behalf of 107 Plaintiffs¹ who have cases pending in Middlesex County, New Jersey, involving a hernia mesh device known as the Prolene Hernia System (“PHS”). The PHS is designed, manufactured, marketed, and sold by Defendants Johnson and Johnson and Ethicon, Inc. (collectively “Defendants”). The device this application seeks to centralize comprises over 99% of the hernia mesh cases currently pending against Defendants in Middlesex County. In addition to the 107 cases already on file, a large volume of cases is currently under review. Plaintiffs therefore anticipate a large number of filings will continue into the foreseeable future.

Accordingly, as the Administrative Office of the Courts has consistently done in the past when presented with large numbers of complex cases sharing similar products, injuries, and the same allegedly responsible party, the undersigned respectfully requests that the PHS cases listed in the attached “Exhibit A,” be given Multi-County Litigation designation in accordance with Rule 4:38A.

¹ See attached Exhibit A for the complete list of cases.

BACKGROUND

This application addresses the approximately 107 currently pending cases, and any future similar product liability cases filed in the Superior Court against Defendants alleging injuries attributable to the PHS device. All filed complaints allege that Defendants' PHS hernia mesh was defective, and that those defects caused the device to fail, resulting in serious injuries and, in most instances, the need for additional medical intervention.

Plaintiffs initially applied for an MCL seeking to consolidate these cases along with other Ethicon hernia mesh devices, which was granted only as to the Physiomesh device. *Exhibit B*, 8/15/18 Notice to the Bar.

Thereafter, Defendants sought to transfer all Ethicon Proceed and PHS cases to Somerset County. The Court declined to transfer to Somerset and instead transferred all remaining cases from Bergen County to Middlesex County, but reminded counsel that they could re-apply for MCL designation:

However, this does not preclude a future application by plaintiffs seeking again MCL designation for these cases. This Court is aware of such a scenario that occurred with another product where the first MCL designation was declined, but upon second application was granted. Please do not take these comments as any presumption or conclusion on my part that these non-physiomesh hernia cases will receive MCL designation in the future. What I am recognizing, what this Court is recognizing is that it's certainly possible that upon a second application providing additional information an MCL may be approved.

Exhibit C, 9/28/18 Transcript of Hearing, T. 37:9-21.

Plaintiffs renewed their MCL application on December 3, 2018, seeking to create a combined MCL for the Proceed and PHS product lines. The AOC granted the application as to the Proceed devices, but not PHS. *Exhibit D*, 5/1/19 Notice to the Bar.

The Physiomesh and Proceed MCLs are now before Judge Porto in Atlantic County under MCLs numbers 627 and 630 respectively. The Proceed MCL includes at least two cases involving both Proceed and PHS claims.² Therefore, discovery regarding the PHS device will be conducted before Judge Porto in the Proceed MCL.

Having been denied MCL designation for PHS twice for a docket of over one 100 cases, all against the same Defendants for the same product, Plaintiffs moved to consolidate the cases under R. 4:38-1, which was denied on August 16, 2019. See *Exhibit E*, 8/16/19 Order denying consolidation. The Order directed Plaintiffs to seek MCL designation. This application follows.

² The cases referenced are *Hughey v. Ethicon*, ATL-L-0982-19 and *Lecza v. Ethicon*, ATL-L-0953-19.

PROLENE HERNIA SYSTEM

The Prolene Hernia System is an implantable prosthetic device indicated for repair of inguinal and abdominal wall hernia defects. PHS is comprised of filaments of a type of plastic known as polypropylene, which is a by-product of the petroleum refining process. PHS is a three-dimensional mesh device consisting of two flat layers of heavyweight, small-pore monofilament polypropylene, separated by a cylinder of heavyweight, small-pore monofilament polypropylene. Placing a polypropylene layer in the anterior and posterior compartments of the inguinal region or abdominal wall—the intended placement of the PHS device—causes an excessive amount of small-pore, heavyweight mesh material beyond that which is typically present in a comparative hernia mesh product. The high volume of polypropylene incorporated in the PHS design results in an intense foreign body inflammatory response that can produce a cascade of injurious complications. These include, but are not limited to, profound contracture of the mesh, increased foreign body sensation, excessive scar tissue formation, erosion, migration, mesh deformation, chronic debilitating pain, and repeated surgical intervention.

In the complaints currently on file, Plaintiffs allege injuries arising from the deleterious properties of polypropylene, which were known to Defendants, as well as the defective nature of Defendants' design, manufacture and warnings associated with the PHS device. All Plaintiffs allege, for example, that the design of PHS created an unreasonable risk of injury, including: (1) pain; (2) dense adhesion formation; (3) organ complications; (4) mesh shrinkage; (5) hernia recurrence; (6) seroma and fistula formation; and (6) infection. Further, all Plaintiffs allege that the polypropylene utilized in PHS (1) incites a severe and chronic inflammatory response in the body and (2) degrades within the body. All Plaintiffs allege that these properties precipitated one or more life-altering complications in Plaintiffs. Moreover, all Plaintiffs allege that the Defendants knew or should have known that the PHS, when implanted according to manufacturer instructions, causes the aforesaid life-altering complications.

COORDINATION IS APPROPRIATE

As set forth in the guidelines, multi-county litigation is warranted when litigation involves a large number of parties; many claims with common, recurrent issues of law and fact; geographical dispersment of parties; a high degree of commonality of injury; a value interdependence between different claims; and a degree of remoteness between the court and actual decision-makers in the litigation, among other considerations.

This litigation meets the above criteria. As described above, many common, recurrent issues of law and fact are associated with these cases as all allege injuries from one device—the Prolene Hernia System. These cases share common Defendants (and likely the same corporate witnesses), design elements, materials, manufacturing and production methods, and underlying science. Additionally, the parties are geographically dispersed, (as these products were sold throughout the nation); a high degree of commonality of injury exists; and a likely value interdependence exists

among different claims. Further, there is a high degree of remoteness between the court and the actual decision makers in the litigation in that even the simplest of decisions may be required to pass through layers of local, regional, national, general and house counsel. All these considerations warrant MCL designation.

At least 107 cases have already been filed, and all involve recurrent legal issues of design defect, failure to warn, breaches of warranties and the possibility of manufacturing defects. There are significant overlapping factual liability issues relating to the selection of materials utilized in Defendants' PHS; its manufacture and sterilization, the nature of the defect; delay or failure in recalling the products; failure to comply with good manufacturing practices; and a host of other related factual issues. In addition, given that 107 cases are currently in front of 12 different courts, there is a substantial risk of duplicative and inconsistent rulings, orders or judgments if the PHS cases are not managed in a coordinated fashion.

Further, separate discovery demands have been served in many of the cases, including pathology requests that realistically require a uniform pathology protocol. Put simply, MCL designation will allow for efficiencies in discovery that will conserve the resources of the judicial system and the parties. Accordingly, MCL designation is appropriate for cases involving the Prolene Hernia System.

STRUCTURE OF COORDINATION

The undersigned counsel contends that the interests of efficiency and resource conservation of the judiciary, as well as of the parties, would support MCL designation of the PHS cases. Due to the commonality of Defendants and allegations regarding the PHS cases, as well as overlap in relevant documents, corporate witnesses, expert discovery and counsel for the respective parties, MCL designation is appropriate and would serve the purposes of Rule 4:38A, in that it would result in considerable conservation of time and resources.

Considering all the factors and information discussed above, the parties respectfully request that the PHS cases be designated as Multicounty Litigation for Centralized Management pursuant to Rule 4:38A. Plaintiffs defer to the judiciary to determine the venue of the MCL but respectfully suggest Atlantic County to effectuate the policies undergirding Rule 4:38A as two other MCLs involving Defendants' hernia mesh devices—including two cases involving the PHS—are currently pending in Atlantic County before the Honorable John C. Porto.

Respectfully submitted,

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Attorneys for Plaintiffs

EXHIBIT A

NJ Hernia Mesh Litigation Prolene Hernia System Master Chart of Cases

1.	Alguacil, Leila	BER-L-6881-18 transferred to MID-L-7011-18	9/24/18	Prolene Hernia System	TX
2.	Asturi, Annette	BER-L-5998-18 transferred to MID-L-7013-18	8/16/18	Prolene Hernia System	OH
3.	Bailey, Kenneth & Lori	MID-L-7993-18	11/30/18	Prolene Hernia System	TX
4.	Barnes, Robert	MID-L-5357-19	7/18/19	Prolene Hernia System	MI
5.	Baucom, Ransom, III	MID-L-1701-19	2/26/19	Prolene Hernia System	NC
6.	Bellhouse, Barbara	MID-L-2126-19	3/13/19	Prolene Hernia System	CA
7.	Bolyard, Glenn	BER-L-5689-18 transferred to MID-L-6795-18	8/6/18	Prolene Hernia System	TX
8.	Boston, Courtney D.	BER-L-4103-18 transferred to MID-L-6799-18	6/4/18	Prolene Hernia System (Polypropylene)	WI
9.	Boucher, Ronald	MID-L-814-19	1/24/19	Prolene Hernia System	LA
10.	Bovino, Edwin	BER-L-5691-18 transferred to MID-L-6800-18	8/6/18	Prolene Hernia System	CA
11.	Bradford, William	BER-L-1806-18 transferred to MID-L-6804-18	3/12/18	Prolene Hernia System	LA
12.	Brawley, Ann	BER-L-6008-18 transferred to MID-L-7016-18	8/16/18	Prolene Hernia System	CA
13.	Briscoe, Anthony & Francelia	BER-L-1691-18 transferred to MID-L-6806-18	3/6/18	Prolene Hernia System	CO
14.	Bromley, Mark	MID-L-2807-19	4/9/19	Prolene Hernia System	GA
15.	Byley, David	MID-L-3737-19	5/14/19	Prolene Hernia System	TX
16.	Caridi, Dale	MID-L-1824-19	3/1/19	Prolene Hernia System	FL

NJ Hernia Mesh Litigation Prolene Hernia System Master Chart of Cases

17.	Carlson, Richard	MID-L-5208-18	11/6/18	Prolene Hernia System	AZ
18.	Chavira, Juan	BER-L-4489-18 transferred to MID-L-6822-18	6/18/18	Prolene Hernia System	MO
19.	Coleman-Jefferson, Sarah	MID-L-1670-19	2/25/19	Prolene Hernia System	VA
20.	Conley, Tony & Cindy	MID-L-3299-19	4/26/19	Prolene Hernia System	AR
21.	Connell, Paul & Pia	MID-L-1050-19	1/31/19	Prolene Hernia System	CA
22.	Cooper, Nicolas	MID-L-809-19	1/24/19	Prolene Hernia System	MT
23.	Corgan, Travis	BER-L-6338-18 transferred to MID-L-7020-18	8/30/18	Prolene Hernia System	MO
24.	Day, Joseph	MID-L-1290-19	2/8/19	Prolene Hernia System	CO
25.	Dias, Alexsandro	MID-L-6831-18	2/26/18	Prolene Hernia System	MA
26.	Dodd, Kirsten & Dustin	MID-L-4777-19	6/27/19	Prolene Hernia System	IA
27.	Dodd, Timothy Bruce	MID-L-3199-19	4/24/19	Prolene Hernia System	IN
28.	Eiben, Christopher, Barbara	MID-L-7976-18	11/30/18	Prolene Hernia System	FL
29.	Eitner, Erick	MID-L-3543-19	5/3/19	Prolene Hernia System,	CA
30.	Evans, Roderick	MID-L-3482-19	5/1/19	Prolene Hernia System	OK
31.	Galvez, Michael	BER-L-1393-18 transferred to MID-L-6847-18	2/22/18	Prolene Hernia System	TX
32.	Gioia, William	MID-L-2993-19	4/16/19	Prolene Hernia System	IL
33.	Godfrey, Holly	BER-L-4334-18 transferred to MID-L-6851-18	6/12/18	Prolene Hernia System	NV
34.	Graves, Ernest	MID-L-4244-19	6/5/19	Prolene Hernia System	LA
35.	Greenklepper, Rochelle	MID-L-6687-18	10/30/18	Prolene Hernia System	AZ

NJ Hernia Mesh Litigation Prolene Hernia System Master Chart of Cases

36.	Guy, Louise & Raymond	BER-L-6030-18 transferred to MID-L-7028-18	8/17/18	Prolene Hernia System	AZ
37.	Hager, Karen	MID-L-810-19	1/24/19	Prolene Hernia System	IL
38.	Hanton, Peter & Ruthie Mae	MID-L-3298-19	4/26/19	Prolene Hernia System	AL
39.	Harris, James	MID-L-3775-19	5/14/19	Prolene Hernia System	TX
40.	Hausman, Robert	MID-L-8527-18	12/21/18	Prolene Hernia System	NJ
41.	Henley, James G.	BER-L-3015-18 transferred to MID-L-6883-18	4/25/18	Prolene hernia System	TN
42.	Henry, Tracy L.	BER-L-6879-18 transferred to MID-L-7031-18	9/24/18	Prolene hernia System	TN
43.	Hernandez, Kathy	MID-L-4569-19	6/18/19	Prolene Hernia System	WA
44.	Hickey, Barbie & John	MID-L-7721-18	10/5/18	Prolene Hernia System	AZ
45.	Hill, Harley & Olga	MID-L-2449-19	3/27/19	Prolene Hernia System	OK
46.	Jackson, Lewis & Doris	MID-L-1015-19	1/30/19	Prolene Hernia System	TX
47.	Johnson, Heather	BER-L-2003-18 transferred to MID-L-6890-18	3/20/18	Prolene Hernia Mesh System	OK
48.	Josephs, Dolores	MID-L-5356-19	7/18/19	Prolene Hernia System	MD
49.	Lindly, James	BER-L-1402-18 transferred to MID-L-6913-18	2/22/18	Prolene Hernia System	KS
50.	Loschen, Shirley	MID-L-4189-19	6/4/19	Prolene Hernia System	LA
51.	Lotridge, Robin	BER-L-1467-18 transferred to MID-L-6925-18	2/26/18	Prolene Hernia System	MI
52.	Maestas, Joseph	BER-L-1456-18 transferred to MID-L-6934-18	2/26/18	Prolene Hernia System	MO (surgery in CO)

NJ Hernia Mesh Litigation Prolene Hernia System Master Chart of Cases

53.	Mahne, Edward	BER-L-6036-18 transferred to MID-L-7038-18	8/17/18	Prolene Hernia System/mesh	LA
54.	Marcus, Arlene	MID-L-4462-19	6/13/19	Prolene Hernia System	FL
55.	Martinez, Toby & Cathy	MID-L-7920-18	11/29/18	Prolene Hernia System	TX
56.	Mata, Raul	BER-L-4035-18 transferred to MID-L-6936-18	5/31/18	Prolene Hernia System (Polypropylene)	TX
57.	McDuffie, Gregory	MID-L-0854-19	1/25/19	Prolene Hernia System	TX
58.	McGrew, Keith & Watkins, Jessica	MID-L-1016-19	1/30/19	Prolene Hernia System	TX
59.	Medina, Rogelio	MID-L-1765-19	2/28/19	Prolene Herina System	TX
60.	Mendoza, Anthony	MID-L-4568-19	06/18/19	Prolene Hernia System	CA
61.	Miller, Ronald	BER-L-2345-18 transferred to MID-L-6940-18	4/3/18	Prolene Hernia System	MI
62.	Mitchell, Peggy	MID-L-4242-19	6/5/19	Prolene Hernia System	NE
63.	Morley, Keith	MID-L-4378-19	6/11/19	Prolene Hernia System	MI
64.	Mosby, Russell	BER-L-5722-18 transferred to MID-L-6943-18	8/7/18	Prolene Hernia System	MI
65.	Moskowitz, Scott	BER-L-5011-18 transferred to MID-L-6945-18	7/10/18	Prolene Hernia System	FL
66.	Mullins, James	MID- 7548-18	11/16/18	Prolene Hernia System	OH
67.	Murphy, Joseph & Linda	MID-L-4049-19	5/29/19	Prolene Hernia System	AZ
68.	Nease, Willie	MID-L-3279-19	4/25/19	Prolene Hernia System	OK
69.	Newman, Stephen	BER-L-5296-18 transferred to MID-L-6950-18	7/20/18	Prolene Hernia System	FL

NJ Hernia Mesh Litigation Prolene Hernia System Master Chart of Cases

70.	Nomikos, Michael	BER-L-6211-18 transferred to MID-L-7044-18	8/24/18	Prolene Hernia System	FL
71.	Olsgard, Georgiann	MID-L-1726-19	2/27/19	Prolene Hernia System	OR
72.	Pepper, Timothy & Cynthia	BER-L-6990-18 transferred to MID-L-7723-18	9/28/18	Prolene Hernia System	MI
73.	Perez, Nora	BER-L-4115-18 transferred to MID-L-6955-18	6/4/18	Prolene Hernia System	FL
74.	Pierce, Jerry	MID-L-7049-18	8/17/18	Prolene Hernia System	ID (surgery in AZ)
75.	Reed, James	MID-L-6318-18	10/17/18	Prolene Hernia System	TX
76.	Rigney, Jonetta	BER-L-6871-18 transferred to MID-L-7724-18	9/24/18	Prolene Hernia System	OK
77.	Ritter, Mark	MID-L-4117-19	5/31/19	Prolene Hernia System	OH
78.	Rivas, Angelina	ATL-L-2132-18 transferred to MID-L-6961-18	6/4/18	Prolene Hernia System (Polypropylene)	TX
79.	Robertson, Lenny	MID-L-4332-19	6/7/19	Prolene Hernia System	LA
80.	Roggow, Joleen	MID-L-853-19	1/25/19	Prolene Hernia System	OK
81.	Schaeffer, Stephanie	MID-L-5660-18	9/24/18	UltraPro Mesh	LA
82.	Schnetzer, Christopher	MID-L-3082-19	4/19/19	Prolene Hernia System	FL
83.	Self, Joel	MID-L-2368-19	3/22/19	Prolene Hernia System	MI
84.	Senkel, William	BER-L-1433-18 transferred to MID-L-6965-18	2/23/18	Prolene Hernia System	TX
85.	Shaw, Jerry	BER_L-5962-18 transferred to MID-L-7051-18	8/15/18	Prolene Hernia System	FL
86.	Siddall, James	MID-L-1127-19	2/4/19	Prolene Hernia System	AK

NJ Hernia Mesh Litigation Prolene Hernia System Master Chart of Cases

87.	Singer, Herbert & Joan	MID-L-1291-19	2/8/19	Prolene Hernia System	NJ
88.	Slaczka, Stanley	MID-L-3682-19	5/10/19	Prolene Hernia System	PA
89.	Smith, Terrence	BER-L-4913-18 transferred to MID-L-6992-18	7/5/18	Prolene Hernia System	MI
90.	Snyder, Rick C.	BER-L-6785-18 transferred to MID-L-7053-18	9/19/18	Prolene Hernia System	TX
91.	Stone, Lewis D.	MID-L-2499-19	03/28/19	Prolene Hernia System	AR
92.	Strauss, Nathan K.	BER-L-5248-18 transferred to MID-L-7055-18	7/18/18	Prolene Hernia System	MN
93.	Szaroleta, Christopher	BER-L-1458-18 transferred to MID-L-6997-18	2/26/18	Prolene hernia system	TN
94.	Tavian, Michael	BER-L-4056-18 transferred to MID-L-6998-18	6/1/18	Prolene Hernia System	MA
95.	Trohoske, Robert	MID-L-1348-19	2/11/19	Prolene Hernia System	PA
96.	Tuell, Glenda	MID-L-1825-19	3/1/19	Prolene Hernia System	AL
97.	Vinas, Daniel	BER-L-5290-18 transferred to MID-L-7003-18	7/20/18	Prolene Hernia System	NJ
98.	Volquardsen, Jamie	MID-L-1997-19	3/8/19	Prolene Hernia System	TX
99.	Walker, Linda	MID-L-5473-19	7/25/19	Prolene Hernia System	TX
100.	Watson, Mark	MID-L-1217-19	2/6/18	Prolene Hernia System	CA
101.	Whipple, Candice	MID-L-7064-18	11/5/18	Prolene Hernia System	FL
102.	Williams, Stanley	MID-L-929-19	1/28/19	Prolene Hernia System	LA
103.	Wilson, Donald & Bernadette	BER-L-4800-18 transferred to MID-L-7007-18	6/29/18	Prolene Hernia System	NJ

NJ Hernia Mesh Litigation Prolene Hernia System Master Chart of Cases

104.	Wilson, Jennifer	MID-L-8497-18	12/20/18	Prolene Hernia System	OH
105.	Wojcik, Darrell	MID-L-7210-19	4/4/19	Prolene Hernia System	Canada (surgery in CO)
106.	Yost, Jeffrey	MID-L-3201-19	4/24/19	Prolene Hernia System	OH
107.	Zwiebel Jeffrey & Ellen	MID-L-2125-19	3/13/19	Prolene Hernia System	FL

EXHIBIT B

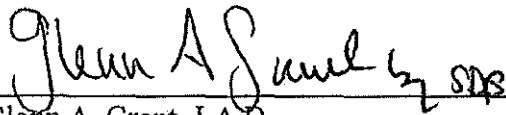
NOTICE TO THE BAR

MULTICOUNTY LITIGATION – PHYSIOMESH FLEXIBLE COMPOSITE MESH LITIGATION

A previous Notice to the Bar requested comments on an application for multicounty litigation (MCL) designation of New Jersey state-court litigation alleging injuries resulting from use of certain hernia mesh products. This Notice is to advise that the Supreme Court, after considering the application and the comments received, has determined to designate only the cases involving allegations of injuries from use of **Physiomesb Flexible Composite Mesh** as multicounty litigation. The Court has assigned this MCL to Atlantic County for centralized case management by Superior Court Judge Nelson C. Johnson.

Published with this Notice is the Supreme Court's July 17, 2018 Order. This Order is posted in the Multicounty Litigation Center <http://www.njcourts.gov/attorneys/mcl/index.html> on the Judiciary's website (www.njcourts.gov). Judge Johnson's Initial Case Management Order will be posted in the Multicounty Litigation Center once issued.

Questions concerning this matter may be directed to Taironda E. Phoenix, Esq., Assistant Director for Civil Practice, Administrative Office of the Courts, Hughes Justice Complex, P. O. Box 981, Trenton, New Jersey 08625-0981; telephone: (609) 815-2900 ext. 54901; e-mail address: taironda.phoenix@njcourts.gov.



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

Dated: August 15, 2018

EXHIBIT C

ILENE GOLD, et al. v. JOHNSON & JOHNSON, et al. -- September 28, 2018

Sheet 1

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY
LAW DIVISION, CIVIL PART
DOCKET NO. BER-L-8037-17
APP. DIV. NO.

ILENE GOLD, ET AL.)
)
 Plaintiff,)
)
 vs.)
)
JOHNSON & JOHNSON AND)
ETHICON,)
)
 Defendants.)

TRANSCRIPT
of
MOTION

Place: Bergen Co. Courthouse
10 Main Street
Hackensack, NJ 07601

Date: September 28, 2018

BEFORE:

HONORABLE RACHELLE LEA HARZ, J.S.C.

TRANSCRIPT ORDERED BY:

JOSHUA S. KINCANNON, ESQ. (Lomurro, Munson, Comer,
Brown & Schottland, LLC, Monmouth Executive Center,
4 Paragon Way, Ste. 100, Freehold, New Jersey 07728)

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GOLD VS. ETHICON

1 judicial economy and efficiency must be considered in
2 all decision, including venue decisions.

3 As noted in plaintiff's opposition there are
4 only three civil judges in Somerset County. The
5 concern is the resources available and Somerset County
6 to suddenly have over 150 cases like these as product
7 liability cases. Not only must this Court consider the
8 number of civil judges in Somerset County but also the
9 corresponding amount of support staff and other
10 resources in that county to handle its civil docket.

11 As noted in plaintiff's opposition as well as
12 in the moving papers of defendants, defendant Johnson &
13 Johnson is headquartered in Middlesex County and
14 Middlesex County is the neighboring county of Somerset.

15 Neither party has proposed a recommendation
16 to transfer a venue to Middlesex County, which is also
17 a proper venue. As this Court has previously discussed
18 Bergen County is not a proper venue. Somerset is a
19 proper venue, but so is Middlesex County a proper venue
20 as that is the county where Johnson & Johnson has its
21 headquarters.

22 It cannot be disputed that Middlesex County
23 has the resources and experience to handle cases such
24 as these. Middlesex County has the judicial resources
25 and support staffing resources to suddenly have a

GOLD VS. ETHICON

1 filing of close to over 200 cases pertaining to a
2 particular product.

3 This Court also notes that a previous
4 application was made by plaintiff's counsel for all
5 their cases to be given MCL designation. Having read
6 the submission in support of the application this Court
7 is not surprised that the MCL designation for these
8 non-physiomesh hernia mesh cases was rejected.

9 However, this does not preclude a future
10 application by plaintiffs seeking again MCL designation
11 for these cases. This Court is aware of such a
12 scenario that occurred with another product where the
13 first MCL designation was declined, but upon second
14 application was granted.

15 Please do not take these comments as any
16 presumption or conclusion on my part that these non-
17 physiomesh hernia cases will receive MCL designation in
18 the future. What I am recognizing, what this Court is
19 recognizing is that it's certainly is possible that
20 upon a second application providing additional
21 information an MCL may be approved.

22 I'm pointing this out as this is another
23 factor I am weighing in making the decision that these
24 cases shall be transferred to Middlesex County, which
25 is an MCL county. Middlesex County is a proper venue

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EXHIBIT D

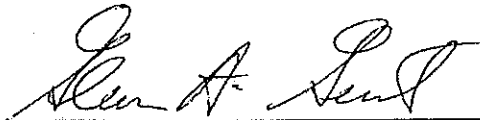
NOTICE TO THE BAR

MULTICOUNTY LITIGATION – PROCEED® SURGICAL MESH AND PROCEED® VENTRAL PATCH LITIGATION

A previous Notice to the Bar requested comments on an application for multicounty litigation (MCL) designation of New Jersey state-court litigation alleging injuries resulting from use of certain hernia mesh products. This Notice is to advise that the Supreme Court, after considering the application and the comments received, has determined to designate only the cases involving allegations of injuries from use of **Proceed® Surgical Mesh and Proceed® Ventral Patch** as multicounty litigation. The Court determined not to designate litigation involving the Prolene® Hernia Mesh System as multicounty litigation. The Court has assigned the Proceed® MCL to Atlantic County for centralized case management by Superior Court Judge John C. Porto.

Published with this Notice is the Supreme Court's March 12, 2019 Order. This Order is posted in the Multicounty Litigation Center <http://www.njcourts.gov/attorneys/mcl/index.html> on the Judiciary's website (www.njcourts.gov). Judge Porto's Initial Case Management Order will be posted in the Multicounty Litigation Center.

Questions concerning this matter may be directed to Melissa A. Czartoryski, Chief, Civil Practice Division, Administrative Office of the Courts, Hughes Justice Complex, P. O. Box 981, Trenton, New Jersey 08625-0981; telephone: (609) 815-2900 ext. 54901; e-mail address: Melissa.Czartoryski@njcourts.gov.



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

Dated: May 1, 2019

EXHIBIT E

DENIED*

JAMES REED,

Plaintiff,

v.

JOHNSON & JOHNSON and
ETHICON, INC.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

DOCKET NO.: MID-L-6318-18

CIVIL ACTION

**ORDER OF CONSOLIDATION
PURSUANT TO R. 4:38-1**

This matter having been brought to the Court for an entry of an Order consolidating the PHS cases, and the Court having found that these are complex product liability actions that would benefit from consolidation;

It is on this 16th day of August, 2019,

ORDERED that:

1. ~~The PHS cases listed on Exhibit ^B are hereby consolidated pursuant to R. 4:38-1; and~~
2. ~~Assigned to the Hon. _____ J.S.C. for administration and trial;~~
3. ~~A copy of this Order shall be included in the deputy clerk of the Superior Court's file in each separate action listed in Exhibit ^B and it is further Ordered that...~~
4. ~~IT IS FURTHER ORDERED that service of this Order shall be deemed effectuated upon all parties upon its upload to eCourts. Pursuant to Rule 1:5-1(a), movant shall serve a copy of this Order on all parties not served electronically within seven days of the date of this Order.~~

/s/ Jamie D. Happas, P.J.Cv.

X Opposed

~~HONORABLE GARY WOLNETZ, J.S.C.~~

Pursuant to Ian Ratzlaff's letter and correspondence dated 8/13/19 counsel shall comply with Directive #02-19 if they want to have all 112 cases managed by the same Judge. Without Supreme Court classification as multicounty litigation, these cases will remain assigned to different pretrial judges, based on the last two digits of the Middlesex County docket number. In any future MCL application counsel must specifically address all of the criteria to be applied in determining whether designation as Multicounty litigation is warranted as set forth in Directive #02-19.