

NOTICE TO THE BAR

CENTRALIZED MANAGEMENT OF PROPECIA LITIGATION

A previous Notice to the Bar requested comments on an application for mass tort designation and centralized management of all New Jersey state court litigation relating to the drug Propecia. The application was submitted pursuant to Court Rule 4:38A and Directive #7-09, the “Revised Mass Tort Guidelines.” This Notice is to advise that the Supreme Court, after considering the application and the comments received, has determined not to designate the Propecia litigation as a mass tort/multi-county litigation, but rather to assign it to the Middlesex Vicinage for centralized case management by Superior Court Judge Jessica R. Mayer

Accordingly, published with this Notice are the Supreme Court’s March 7, 2012 Order and Judge Mayer’s March 16, 2012 case management order. The Orders also are posted on the Judiciary’s Internet website (www.njcourts.com) in the Mass Tort Information Center (<http://www.judiciary.state.nj.us/mass-tort/index.htm>).

Questions concerning this matter may be directed to Leslie Santora, Esq., Chief Civil Court Programs, Administrative Office of the Courts, Hughes Justice Complex, P.O. Box 981, Trenton, New Jersey 08625-0981; telephone: (609) 292-8471; email address: leslie.santora@judiciary.state.nj.us.

/s/ Glenn A. Grant

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

Dated: March 16, 2012

SUPREME COURT OF NEW JERSEY

On application made pursuant to Rule 4:38A, it is hereby ORDERED that all pending and future New Jersey state court actions seeking damages or other relief arising out of the use of the drug **Propecia**, though not designated as a mass tort, shall be assigned for centralized case management purposes to Superior Court, Law Division, Middlesex County for handling by Superior Court Judge Jessica R. Mayer; and

It is FURTHER ORDERED that any and all such complaints that have been filed in any other county shall be transferred to Superior Court, Law Division, Middlesex County and assigned to Judge Mayer; and that, pursuant to *N.J. Const.* (1947), Art. VI, sec. 2, par. 3, the provisions of *Rule* 4:3-2 governing venue in the Superior Court are supplemented and relaxed so that all future such complaints, no matter where they might be venued, shall be filed in Middlesex County and assigned to Judge Mayer; and

It is FUTURE ORDERED that Judge Mayer shall oversee all management and trial issues in these matters; and

It is FURTHER ORDERED that no mediator or other master may be appointed in this litigation without the express prior approval of the Chief Justice.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: March 7, 2012

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 623

IN RE PROPECIA® LITIGATION

CIVIL ACTION

INITIAL ORDER FOR CASE
MANAGEMENT

THIS MATTER having been opened by the court on its own motion, and in furtherance of the Order of the Supreme Court of New Jersey dated March 7, 2012, ordering centralized case management of the Propecia® litigation, and good cause existing for the entry of this order pursuant to R. 4:38A,

IT IS on this 16th day of March, 2012,

ORDERED as follows:

1. Effect of This Order.

(a) Applicability. This order applies to all Propecia® litigation actions centralized for coordinated management in the Middlesex County Vicinage, and to all those hereinafter filed or transferred to the Middlesex County Vicinage pursuant to the New Jersey Supreme Court's Order dated March 7, 2012. The actions are centralized to avoid duplication and to prevent conflicts. Each action will retain its own docket number.

(b) Transfer of Files. All court files, including pleadings, motions, and other papers, shall be transferred from the original vicinage of venue to the Mass Tort Section of the Middlesex County Vicinage as soon as practicable.

(c) Stay. All motions pending in any vicinage are stayed until further order of the court. The filing of motions is stayed until further order of the court.

2. Initial Conference. All parties shall appear for a case management conference with the undersigned at 10:00 a.m. on April 19, 2012 in Courtroom 403 at the Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey.

(a) Attendance. All parties shall attend the conference. To the extent practicable, parties with similar interests are expected to select one attorney to act on their joint behalf at the conference. Designation of such attorney for purposes of this conference shall not preclude other representation during the litigation; nor shall any party, in attending the conference, thereby waive any objection to jurisdiction, venue, or service.

(b) Service List. Counsel are requested to forward a copy of this order to other attorneys who should be notified of the conference, and to notify court staff immediately of all counsel who are to be included on the court's official counsel list. An official service list will be prepared after the conference.

(c) Other Participants. Persons who are not named as parties in this litigation but who may later be joined as parties, or are parties in related litigation pending in other federal and state courts, are invited to attend.

(d) Agenda. A tentative agenda is appended as Attachment 1. Counsel shall advise the court of any additional issues for consideration by 12:00 noon no later than seven (7) days prior to the conference.

3. Preparations for Conference.

(a) Initial Conference of Counsel. Before the conference, counsel shall meet, confer and seek consensus with respect to the items on the agenda.

(b) Statements. Counsel will submit to the court by 12:00 noon at least seven (7) days prior to the conference, a brief written statement (not to exceed three (3) pages) containing the following information, to the extent known:

1. List of all companies affiliated with the parties, and counsel associated in the litigation, to assist the court in identifying any problems of recusal or disqualification;
2. List of all related actions pending in state or federal court and their current status;
3. Status of discovery including digital information identification, collection, and preservation;
4. Status of settlement negotiations, settlement demands, mediation, and prospects for settlement.

These statements will not be filed with the clerk, will not be binding, will not waive claims or defenses, and may not be offered into evidence against a party in later proceedings.

4. Interim Measures. Until otherwise ordered by the court:

(a) Duty to Preserve. Each party shall preserve all documents and other records, including computerized records, containing information potentially relevant to this litigation. No party shall erase computerized data until opposing counsel has been notified of all existing programs and a court order has been obtained. Each party shall preserve any physical evidence or potential evidence and shall not conduct any tests on

evidence without notifying opposing counsel. Unless opposing counsel stipulate to the test, no test shall be conducted without prior court approval.

(b) Protective Stipulation/Agreement. The parties should attempt to reach agreement on all issues regarding the necessity for, scope of, and terms of a protective stipulation or agreement covering confidential, privileged, or protected information.

5. Later Filed Actions. This order shall apply to related actions later filed in or transferred to this court.

6. Internet Notice. All orders, notices and other pertinent documents filed with the court common to the entire litigation shall be available on the New Jersey Judiciary Web Page for Mass Tort Litigation, which may be accessed at www.judiciary.state.nj.us/mass-tort/index.htm.

7. Admission Pro Hac Vice. Attorneys must be admitted to practice and in good standing in New Jersey, unless admitted *pro hac vice*:

(a) An attorney seeking admission *pro hac vice* shall apply by formal notice of motion or by consent with supporting affidavit and proposed form of order, in compliance with R. 1:21-2 of the Rules Governing the Courts of New Jersey. Motions for admission *pro hac vice* filed with consent of opposing counsel shall be decided at the earliest convenience of the court without the need to be heard on the regular motion calendar. Counsel shall use the *pro hac vice* application form posted on the judiciary's website at <http://www.judiciary.state.nj.us/civil/forms/10521.pdf>.

(b) In accordance with R. 1:21-2, the attorney seeking admission *pro hac vice* must certify the following to be true:

- 1) Counsel seeking *pro hac vice* admission has a long-standing relationship with the client on whose behalf he or she wishes to appear, and the client has requested his or her participation in the litigation as attorneys *pro hac vice*.
- 2) Counsel seeking *pro hac vice* admission is associated with New Jersey counsel of record.
- 3) Counsel seeking *pro hac vice* admission has reviewed the New Jersey Rules of Court and agrees to comply with said Rules, including all disciplinary rules.
- 4) Counsel seeking *pro hac vice* admission represents that he or she is a member in good standing of the bar of the highest court of the state where counsel practices; that no disciplinary proceedings are pending against him or her in any jurisdiction and no discipline has previously been imposed against him or her

in any jurisdiction; and that counsel understands his or her continuing obligation to advise the court of any disciplinary proceedings.

5) Out-of-state attorneys representing plaintiffs must certify that all retainer agreements with clients in the subject litigation do not, and in the future will not, violate any provisions of the New Jersey Rules of Court.

6) Out-of-state attorneys seeking to represent a corporate defendant must certify as to any prior involvement with that corporation or its related entities, including the capacity in which the attorney was involved. Further, the attorney must include in his or her affidavit a statement of the good faith belief that the attorney was not involved with policy or management decisions that would require the attorney to be called as a witness in any matter before the court.

(c) Counsel admitted *pro hac vice* may try the action, but shall not be designated trial counsel under R. 4:25-4. No proceedings shall be adjourned because *pro hac vice* counsel is unavailable.

(d) All pleadings, motions and correspondence to the court must be submitted by New Jersey counsel, unless the court specifically waives this provision.

(e) *Pro hac vice* counsel must be accompanied by a member of the New Jersey Bar at all proceedings.

(f) Counsel admitted *pro hac vice* shall consent to the appointment of the Clerk of the Supreme Court of New Jersey as an agent upon whom service of process may be made for all actions against their firm that may arise out of their participation in this matter.

(g) Counsel admitted *pro hac vice* shall be required to make annual payments to the Disciplinary Oversight Committee (R. 1:20-1(b)), the New Jersey Lawyers' Fund for Client Protection (R. 1:28-2(a)), and the New Jersey Lawyers Assistance Program (R. 1:28B-1(e)).

(h) Counsel admitted *pro hac vice* must within ten (10) days of the entry of the order for admission, pay the fees required by R. 1:20-1(b), R. 1:28-2 and R. 1:28B-1(e) and submit affidavits of compliance within fifteen (15) days thereafter. During the pendency of these matters counsel admitted *pro hac vice* shall continue to comply with R. 1:20-1(b), 1:28-2 and 1:28B-1(e) on an annual basis and shall submit affidavits of compliance within thirty (30) days of such compliance.

(i) Admission *pro hac vice* shall be automatically terminated for failure to make any required annual payment, upon appropriate notification from the Administrative Office of the Courts that the annual payment has not been made. Proof of such payment, after filing proof of the initial payment, shall be made no later than February 1 of each year.

(j) Noncompliance with any of the requirements of *pro hac vice* admission shall constitute grounds for removal.

8. Captions, Pleadings, and Fees.

(a) All parties shall file individual actions at the Superior Court of New Jersey, Middlesex County Court House, ATTN: Mass Tort, 56 Paterson Street, P.O. Box 2633, New Brunswick, NJ 08903. The Case Information Statement accompanying the pleading shall identify the case type as 623. Filing fees shall be paid pursuant to the Rules of Court and N.J.S.A. 22A:2-6 and -7.

(b) Each action shall be limited to one plaintiff or a related household of plaintiffs. No plaintiff shall use the centralized case caption on an individual complaint.

(c) All pleadings, motion papers, and correspondence shall add the designation "CM" after the docket number indicating Centralized Case Management and under the caption Civil Action shall add the title of this litigation, "In Re Propecia® Litigation."

(d) The Middlesex County Vicinage shall maintain a master docket and case file caption under the style "In Re Propecia® Litigation" master file number. All orders, pleadings, and other papers filed therein are deemed filed and docketed in each individual action.

(e) Counsel for plaintiffs shall provide to the court an official service list updated every sixty (60) days. The list shall contain the case names, docket numbers and the filing dates. For each party, counsel shall be identified by name, firm name, address, telephone number, telecopy number and e-mail address. The court shall maintain an official counsel list on the Mass Tort Litigation website for the purpose of facilitating service of documents.

(f) Counsel lists shall not be appended to any court submission. The counsel list shall be incorporated by reference on all certifications of service, pleadings, motions and correspondence. The reference should be to all counsel on the last official service list as found on the Judicial Web Page for Mass Tort Litigation.

9. Case Management Conferences.

(a) The court shall conduct periodic status, scheduling, and case management conferences to assess the progress regarding the matters scheduled herein. To the extent

practicable, these conferences will be held every thirty (30) days. Reasonable notice of all such conferences will be provided to all counsel of record.

(b) Counsel shall submit a joint agenda to the court listing the issues for the case management conference by 12:00 noon at least seven (7) days prior to the scheduled conference. The parties shall meet and confer regarding the issues to be presented to the court at the case management conference.

(c) All conferences or parts thereof will be on the record and recorded. Anyone desiring a transcript may order one directly from the Middlesex County Transcription Department. Counsel may also provide a private reporter. In any proceeding in which a transcript is ordered, either from the court or a private reporter, counsel shall ensure that one copy of the transcript is also filed with the court.

(d) Counsel appearing at each conference shall sign an attendance sheet, be familiar with the issues to be discussed, and not schedule other matters for the date and time of the conference.

(e) All counsel are required to comply with the provisions of each case management order whether or not he or she was in attendance at the conference giving rise to the order.

10. Motions.

(a) All motions are to be filed with Superior Court of New Jersey, Middlesex County Court House, ATTN: Mass Tort, 56 Paterson Street, P.O. Box 2633, New Brunswick, NJ 08903. All motion papers shall include a return date, scheduled in accordance with the Rules of Court. Courtesy copies for the judge and two law clerks are required.

(b) All motions shall be filed by 12:00 noon on the due date for the motion.

(c) Any motion that is applicable to more than one case shall list on the first page each docket number affected; or if all cases, the notation "Applicable to All Cases" with a list of docket numbers attached as Schedule "A" to the notice of motion. Filing fees associated with motions shall be paid pursuant to the Rules of Court and N.J.S.A. 22A:2-6 and -7. A separate fee shall be required for each docket number affected by a motion.

(d) Movants shall file an original and one copy of each Notice of Motion, supporting documents and proposed form of order with the Mass Tort Section. One additional copy of these papers along with a self-addressed envelope with sufficient postage may be supplied if a request is made for a return of that copy marked "filed."

(e) A proposed form of order shall be submitted for all motions.

(f) No dispositive motions pursuant to R. 4:46 shall be filed before discovery is complete without the court's permission. Dispositive motions, *in limine* motions, choice of law motions and Kemp motions shall be filed as scheduled by the court during case management conferences.

(g) Counsel shall not file any discovery motions without first meeting and conferring to try to resolve the discovery dispute. If the issue cannot be resolved, counsel shall include this issue in the next scheduled case management conference agenda.

(h) Oral argument shall be governed by R. 1:6-2.

/s/ Jessica R. Mayer

Hon. Jessica R. Mayer, J.S.C.

Attachment 1: Agenda For Conference Scheduled on April 19, 2012

CASE CONFERENCE

The Honorable Jessica R. Mayer, J.S.C. will hold a case management conference at 10:00 a.m. on April 19, 2012 in Courtroom 403 at the Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey. At this conference, the court will discuss:

1. Liaison counsel;
2. Master complaint form;
3. Filing of answers;
4. Initial discovery issues;
5. Timeline of key dates;
6. Types of injury claimed;
7. List of characteristics that may be representative of different groups of plaintiffs, such as age, gender, pre-existing conditions and other information useful for the construction of a court database for all filed cases;
8. Miscellaneous issues.

Hon. Jessica R. Mayer, J.S.C.