

NOTICE TO THE BAR

APPLICATION FOR CENTRALIZED MANAGEMENT OF DIGITEK LITIGATION IN BERGEN VICINAGE WITHOUT MASS TORT DESIGNATION

An application has been submitted to the Supreme Court pursuant to Rule 4:38A and Directive # 10-07, "Mass Torts – Revised Guidelines and Criteria for Designation," for centralized management in the Bergen Vicinage of all New Jersey state-court litigation involving the drug Digitek, but without mass tort designation. A copy of the application is posted on the "Mass Tort Information Center" portion of the Judiciary's Internet Website at <http://www.judiciary.state.nj.us/mass-tort/index.htm>.

Anyone wishing to comment on or object to this application should provide such comments or objections in writing, with relevant supporting documentation, **by October 15, 2008** to the Acting Administrative Director of the Courts, Administrative Office of the Courts, Hughes Justice Complex, P. O. Box 037, Trenton, NJ 08625-0037.

/s/ Glenn A. Grant

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

Dated: September 15, 2008

HARRIS BEACH PLLC
ATTORNEYS AT LAW

August 28, 2008

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VIA OVERNIGHT MAIL

Hon. Philip S. Carchman, P.J.A.D.
Administrative Director of the Courts
Administrative Office of the
Courts of the State of New Jersey
Hughes Justice Complex
25 W. Market Street
P.O. Box 037
Trenton, New Jersey 08625

CIVIL PRACTICE DIV.

SEP - 2 2008

RECEIVED

AUG 29 2008

Re: Application for Centralized Management of Cases Involving Digitek®

Dear Judge Carchman:

On behalf of Actavis Inc. ("Actavis"), Harris Beach PLLC and Tucker Ellis & West LLP request centralization of all pending and future litigation relating to claims arising from the purchase and ingestion of Digitek®.¹ Actavis Totowa LLC, a wholly owned subsidiary of Actavis Inc., manufactured, packaged and labeled Digitek®, an FDA-approved version of the generic prescription pharmaceutical digoxin. Joining in this application is Mylan Inc. which, through certain of its subsidiary entities, distributed and sold Digitek® on the wholesale level.² The litigation satisfies all essential criteria set forth in the guidelines of Directive #10-07 and thus meets the requirements for central case management in or near the most appropriate vicinage, Morris County.

¹ A list of the known state court actions is set forth in Exhibit A. Defendants removed *Palladino v. Actavis, et al.*, 2:08-cv-4034 (JAG), on August 11, 2008.

² The relevant defendant entities, some or all of which are named in various pending actions, are listed in Exhibit B, along with their state of registration and location of principal place of business. For those entities in New Jersey, the county encompassing the principal place of business is included as well. Icelandic entities named as defendants in certain actions have not been properly served with process and have not appeared in any action; others are not actual business entities capable of being sued.

I. BACKGROUND

Actavis is a privately held Delaware corporation with a principal place of business in Morristown, New Jersey. Actavis Totowa manufactured Digitek® at its plant in Little Falls, in Passaic County. Digitek®, manufactured by Actavis Totowa, was shipped directly to distributor facilities in North Carolina and Illinois. On April 25, 2008, under FDA direction and approval, Actavis announced a voluntary Class I recall of all Digitek® on the market. Actavis also suspended all manufacturing at the Little Falls facility.

Mylan Inc. (formerly known as “Mylan Laboratories, Inc.”), the wholesale distributor of Digitek®, is a Pennsylvania corporation with corporate headquarters located outside Pittsburgh. Its wholly owned subsidiaries, Mylan Pharmaceuticals, Inc. and UDL Laboratories, Inc., are West Virginia and Illinois corporations, respectively, with facilities located in Illinois, West Virginia, Pennsylvania and North Carolina. Mylan Bertek Pharmaceuticals, Inc. is a Texas corporation with no place of business since 2006.

Shortly after the recall announcement, dozens of cases were filed in state and federal courts around the country. The first cases filed in New Jersey were commenced in federal court in May 2008. With little variation, these plaintiffs generally allege to have sustained or been placed at increased risk of unspecified personal injuries and economic damages through their purchase and ingestion of allegedly defective Digitek®. Plaintiffs seek, *inter alia*, individual and class equitable relief, including injunctions and medical monitoring, as well as compensatory and punitive damages under the New Jersey Consumer Fraud, Product Liability and Punitive Damages Acts.

On August 13, 2008, acting on the applications of many federal court litigants, the JPML established a multi-district litigation in the Western District of West Virginia. (Attached as Exhibit C is a copy of the JPML Transfer Order in *In Re: Digitek Products Liability Litigation*, MDL No. 1968). Apparently unhappy with the selected federal district court judge, or perhaps perceiving disadvantages in an MDL based in West Virginia, certain Plaintiffs’ counsel dismissed the New Jersey federal court actions and re-filed them in New Jersey Superior Court. In a transparent attempt to steer the cases to a favored forum, two law firms filed their state court

cases in Atlantic County alone and all twelve cases were assigned to Civil Presiding Judge Carol E. Higbee.³ Under the R. 4:3-2 venue selection rules for transitory actions, Atlantic County is clearly an inappropriate venue.⁴

The pending actions have no connection whatsoever to the selected venue; eleven of the named plaintiffs admittedly live outside the state and the other does not allege residence in Atlantic County. Similarly, none of the corporate defendants may be considered “actually doing business” within the meaning of R. 4:3-2(b). None were served with process or maintain a registered office within the county. Actavis Inc. is headquartered in Morristown; the other Actavis facilities in New Jersey are located in Passaic and Union counties. Atlantic County is particularly inconvenient for defendants, given that the Mylan defendants and national defense counsel must travel by air from California, North Carolina, West Virginia, western Pennsylvania, Illinois and Ohio, and that all in-state defendants and their counsel are located exclusively in northern New Jersey.

II. CENTRALIZING IN NORTHERN NEW JERSEY IS MOST APPROPRIATE

The defendants named are largely identical in all cases and are all represented by the undersigned firms. Because all Actavis entities are located in northern New Jersey counties (Morris, Passaic and Union), assignment for coordination to a vicinage and judge located in or near those northern New Jersey counties is fair, equitable and most efficient. Morris County, home of Actavis’s United States headquarters, is the most obvious and appropriate venue. Consideration of the factors set out in Your Honor’s Directive #10-07 militates that the eleven pending and all future New Jersey actions should be transferred and centralized for efficient and convenient case management in or near Morristown.

³ Levin, Fishbein, Sedran & Berman has filed their state court actions in Atlantic County despite having originally filed in federal district court in Newark. The complaints provide no explanation for the change. Upon information and belief, these attorneys and others intend to file well over 100 additional actions.

⁴ Defendants have filed a timely motion to change the venue of *Merola v. Actavis, et al.*, ATL-L-2314-08.

Recognizing, however, that Morris County may not have an appropriately experienced and staffed facility in which to centralize this litigation, and that no judge within the vicinage is presently designated as a “mass tort” judge, Defendants respectfully submit that the only appropriate alternate choice is Judge Jonathan N. Harris of nearby Bergen County. Judge Harris is designated as a “mass tort” judge and is experienced at managing complex products liability and toxic torts litigation. He is familiar with the core issues that arise in pharmaceutical and other multi-party litigation from his management of the Depo-Provera litigation and other complex tort actions.⁵

Following entry of an order transferring the pending Digitek® cases to Morris County, or Judge Harris, Actavis respectfully requests that other subsequently filed related actions be transferred for centralized management without further application to Your Honor and the New Jersey Supreme Court.

III. REQUIRED CRITERIA FOR CENTRALIZATION ARE SATISFIED

The following criteria for centralization, set forth in Directive #10-07, are clearly substantially satisfied:

A. Whether the cases possess the following characteristics:

1. *[The litigation] involves large numbers of parties.*

In the eleven pending state court actions, the plaintiffs have named substantially the same seven to ten corporate defendants. These are Actavis Inc., Mylan Inc. and various related or subsidiary corporate entities. In each complaint, there is a primary plaintiff, alleging injury or damage due to the alleged purchase and/or ingestion of Digitek®, and sometimes there is a second, spousal plaintiff alleging loss of consortium damages. Upon information and belief, none of the presently pending New

⁵ Judge Higbee’s docket is relatively crowded, and is expected to grow. She has recently been the subject of several requests to preside over other large pharmaceutical cases including, at her own suggestion, a combined Fosamax and Aredia/Zometa litigation. Attached as Exhibit C is a copy of Judge Higbee’s letter to Your Honor requesting reassignment of this combined mass tort to her own court.

Jersey actions seek class certification as do many other complaints pending in other jurisdictions.

2. *It involves many claims with common, recurrent issues of law and fact that are associated with a single product.*

All of the eleven complaints plead the same or substantially similar sets of facts regarding defendants' conduct, and allege harm caused by the same, single product, Digitek®. All of the complaints plead the same, or substantially similar, causes of action, including: Negligence, violations of the New Jersey Products Liability, Consumer Fraud Acts, negligent and/or intentional misrepresentation, breach of express warranty, breach of implied warranty, various forms of equitable relief and/or medical monitoring, and, where applicable, loss of consortium.

3. *There is geographical dispersement of parties.*

The hundreds of potential plaintiffs are domiciled throughout the country, and of the eleven pending cases, none reside in New Jersey. Defendants and their counsel are dispersed among northern New Jersey, California, western Pennsylvania, West Virginia, North Carolina and Ohio. Actavis executives and employees frequently travel and are often reassigned to national and international Actavis locations.

4. *There is a high degree of commonality of injury or damages among plaintiffs.*

Each complaint sets forth unspecified economic and personal injuries and seeks the same or substantially similar categories of damages, including compensatory damages for present and future physical, emotional, and economic injuries; interest, costs, and attorneys' fees; punitive damages; equitable relief; and, in some cases, medical monitoring.

5. *There is a value interdependence between different claims.*

Given the recent establishment of an MDL, and the general uniformity of the alleged injuries, there is a high likelihood that the perceived strength or weakness of the causation and liability aspects of all cases will be dependent upon the outcomes of other lawsuits in federal court other state court jurisdictions.

6. *There is a degree of remoteness between the court and actual decision-makers in the litigation.*

Certainly all parties presently involved in pending cases are remotely located from the Atlantic City courthouse. Actavis's entire presence in the state is in the northern New Jersey counties of Morris, Union and Passaic. The Mylan entities are all out-of-state, as are national defense counsel and even most of the plaintiffs. Indeed, plaintiffs' attorneys' are Philadelphia-based firms. None have offices in or near Atlantic City.

- B. Whether there is a risk that centralization may unreasonably delay the progress, increase the expense, or complicate the processing of any action, or otherwise prejudice a party.

None of the proposed cases have advanced beyond the initial pleadings stage. There is thus no risk of prejudicial delay.

- C. Whether centralized management is fair and convenient to the parties, witnesses and counsel.

Centralization in Morris County or a nearby vicinage would undoubtedly be fair to the parties, witnesses and counsel. Parties and counsel are largely from out-of-state and counties in northern New Jersey are convenient to New Jersey's only major airport, Newark-Liberty. Both the Morris and Bergen courthouses are located an approximately equal distance of just over twenty miles from, Newark-Liberty. In contrast, the Atlantic City courthouse is inconveniently situated over 115 miles from Newark-Liberty and over 65 miles from its nearest major airport in Philadelphia. No train or other convenient public transport links Newark-Liberty with Atlantic City.

- D. Whether there is a risk of duplicative and inconsistent rulings, orders or judgments if the cases are not managed in a coordinated fashion.

All of the plaintiffs in these cases are residents of states other than New Jersey. Choice-of-law issues will arise where the plaintiffs' home states' laws differ. As all of the operative facts relating to individual plaintiffs—prescription, purchase, dispensing and ingestion of Digitek®, individual medical histories and treatment, and allegedly sustained personal and economic injuries—took place in the plaintiffs' home states, Defendants may seek *forum non-conveniens* dismissals. To avoid inconsistent rulings, these substantive and procedural motions are best decided by a single judge, possibly in consultation with the MDL or other states' courts.⁶

⁶ Defendants expressly reserve their rights with respect to all available affirmative defenses. Moreover, by this application, Defendants do not waive the right to argue *forum non*

E. Whether coordinated discovery would be advantageous.

As is common in such litigation, and in light of the expected multiplicity of firms and plaintiffs, Defendants anticipate additional voluminous discovery demands to be served in these or later filed actions. Defendants also anticipate being served with multiple duplicative demands to depose current and former executives and employees. Coordination and management of these voluminous requests—and anticipated objections—by a single, experienced jurist is necessary to avoid duplicative and burdensome discovery, and to avoid potentially inconsistent rulings.

Written discovery demands have been served in the first-filed federal court case, soon to be transferred to the MDL. These demands consist of eighty-three (83) individual requests for production and sixty-nine (69) individual interrogatories. Plaintiffs in the state court actions have not yet served demands, but clearly the information requested will be similar. Furthermore, a document preservation order has been entered in the MDL, with which defendants are complying. The interests of judicial economy and savings to the parties will be served by informal state-federal coordination with MDL Judge Goodwin in the Southern District of West Virginia. Statewide coordination would be critical for the same reasons.

F. Whether the cases require specialized expertise and case processing as provided by the dedicated mass tort judge and staff.

Defendants believe that specialized case processing and a dedicated staff may facilitate efficient handling and filing of large numbers of cases, although Defendants are unable to state whether these will be required. Although most of the actions will be substantially similar, in excess of several hundred may be filed.

G. Whether centralization would result in the efficient utilization of judicial resources and the facilities and personnel of the court.

Clearly, centralization would reduce the overall burdens on the court system should individual cases be litigated in different counties in accordance with the Court's venue rules. One judge ruling on all issues will likely reduce burdens on all and promote the efficient use of scarce court resources and personnel.

conveniens or to seek a change of venue in any appropriate individual case filed or yet to be filed. Finally, nothing herein should be construed as supportive of or a basis for certification of a class action, which would be improper under any set of applicable laws or rules.

H. Whether issues of insurance, limits on assets and potential bankruptcy can be best addressed in coordinated proceedings.

Defendants are not presently aware of any issues of insurance, limits on assets or potential bankruptcy that could affect these proceedings. However, should such issues arise, centralized and coordinate proceedings would clearly be the best forum in which to have them addressed.

I. Whether there are related matters pending in federal court or in other state courts that require coordination with a single New Jersey judge.

As indicated above, similar federal court litigation has been centralized in an MDL pending in the Southern District of West Virginia. Coordination by a single New Jersey judge with Judge Goodwin in West Virginia would be critical to just and efficient administration and, ultimately, resolution of these actions.

CONCLUSION

For the reasons set forth above—the need to coordinate discovery, both within New Jersey and with the MDL, avoid inconsistent rulings and for convenience of the parties and attorneys—Defendants respectfully submit that centralized management in Morris or nearby Bergen County is warranted and respectfully request such centralization.⁷

⁷ These cases, however, do not necessarily merit designation as a “mass tort,” primarily due to the false implication that large numbers of consumers were physically injured. The truth appears to be just the opposite: None of the complaints in the pending New Jersey actions allege a specified physical injury to any named plaintiff.

REQUIRED NOTIFICATION

Pursuant to Directive #10-07, all involved parties are hereby notified that this application will be sent by the Administrative Director to all Assignment Judges and Civil Presiding Judges, and will be published by the Administrative Director as a Notice to the Bar in the legal newspapers and in the Mass Tort Information Center on the Judiciary's Internet website, providing information on where and within what time period comments on and objections to the application may be made.

Respectfully submitted,

HARRIS BEACH PLLC

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Hon. Philip S. Carchman, J.A.D.
August 28, 2008
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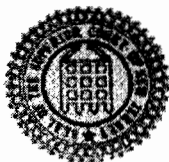
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Superior Court of New Jersey Law Division Civil Part Discovery End Date Search List



Last Update as of 8/26/2008.

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To refine your results, return to the main search page and click on the "Search" button

A blank Discovery End Date indicates that the date has not yet been calculated
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Venue	Docket #	Consolidation	Caption	Discovery End Date	Detail
ATLANTIC	L -002781-08	N	BELLAMY DONA ETAL VS ACTAVIS GROUP HF ETAL	-	<input type="button" value="Detail"/>
ATLANTIC	L -002784-08	N	BRADWAY MARLENE ETAL VS ACTAVIS GROUP HF	-	<input type="button" value="Detail"/>
ATLANTIC	L -002786-08	N	BRATCHER JERRY ETAL VS ACTAVIS GROUP HF	-	<input type="button" value="Detail"/>
ATLANTIC	L -002707-08	N	ESTEPP REGINA VS ACTAVIS TOTOWA LLC ETAL	-	<input type="button" value="Detail"/>
ATLANTIC	L -002824-08	N	FRICKER RONALD ETAL VS ACTAVIS TOTOWA LLC ETAL	-	<input type="button" value="Detail"/>
ATLANTIC	L -002787-08	N	HERGERT JOYCE ETAL VS ACTAVIS GROUP HF ETAL	-	<input type="button" value="Detail"/>
ATLANTIC	L -002782-08	N	HOOVER BERTINA ETAL VS ACTAVIS GROUP HF ETAL	-	<input type="button" value="Detail"/>
ATLANTIC	L -002783-08	N	MARIAM PHILLIP ETAL VS ACTAVIS GROUP HF ETAL	-	<input type="button" value="Detail"/>
ATLANTIC	L -002785-08	N	MCANLY JEANETTE VS ACTAVIS GROUP HF	-	<input type="button" value="Detail"/>
ATLANTIC	L -002314-08	N	MEROLA ANNA VS ACTAVIS TOTOWA LLC ETAL	11/18/2009	<input type="button" value="Detail"/>
ATLANTIC	L -002727-08	N	WILSON DOROTHY ETAL VS ACTAVIS TOTOWA LLC ETAL	-	<input type="button" value="Detail"/>

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Bellamy v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	
Bellamy v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	
Bellamy v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Bellamy v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Bellamy v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Bellamy v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Bellamy v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Bellamy v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Bellamy v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Bellamy v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Bradway v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Bradway v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	
Bradway v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Bradway v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Bradway v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Bradway v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Bradway v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Bradway v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Bradway v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Bradway v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Bratcher v Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	
Bratcher v Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Bratcher v Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Bratcher v Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Bratcher v Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Bratcher v Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Bratcher v Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Bratcher v Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Bratcher v Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Bratcher v Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Clark v. Actavis	Actavis Group hf	Iceland	Hafnarfjrdur, Iceland	
Clark v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjrdur, Iceland	
Clark v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Clark v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Clark v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Clark v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Clark v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Clark v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Clark v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Clark v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Hergert v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	
Hergert v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	
Hergert v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Hergert v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Hergert v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Hergert v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Hergert v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Hergert v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Hergert v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Hergert v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Hooover v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	
Hooover v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	
Hooover v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Hooover v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Hooover v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Hoover v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Hoover v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Hoover v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Hoover v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Hoover v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Mariam v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	
Mariam v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	
Mariam v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Mariam v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Mariam v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Mariam v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Mariam v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Mariam v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Mariam v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Mariam v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
McAnly v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	
McAnly v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	
McAnly v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
McAnly v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
McAnly v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
McAnly v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
McAnly v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
McAnly v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
McAnly v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
McAnly v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Merola v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	
Merola v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	
Merola v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Merola v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Merola v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Merola v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Merola v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Merola v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Merola v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Merola v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Moore v. Actavis	Actavis Group hf	Iceland	Hafnarfjrdour, Iceland	
Moore v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjrdour, Iceland	
Moore v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Moore v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Moore v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Moore v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Moore v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Moore v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Moore v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Moore v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Morrow v. Actavis	Actavis Group hf	Iceland	Hafnarfjrdur, Iceland	
Morrow v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjrdur, Iceland	
Morrow v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Morrow v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Morrow v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Morrow v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Morrow v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Morrow v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Morrow v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Morrow v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Palladino v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	
Palladino v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	
Palladino v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Palladino v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Palladino v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Palladino v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Palladino v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Palladino v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Palladino v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Palladino v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Pasken v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Pasken v. Actavis	Actavis Group PTC, ehf	Iceland	Hafanarfdour, Iceland	
Pasken v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Pasken v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Pasken v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Pasken v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Pasken v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Pasken v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Pasken v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Pasken v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Roy v. Actavis	Actavis Group hf	Iceland	Hafanarfdour, Iceland	
Roy v. Actavis	Actavis Group PTC, ehf	Iceland	Hafanarfdour, Iceland	

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Roy v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Roy v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Roy v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Roy v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Roy v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Roy v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Roy v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Roy v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Estepp v. Actavis	Actavis Group hf	Iceland	Hafnarfjour, Iceland	
Estepp v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjour, Iceland	
Estepp v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Esteypp v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Esteypp v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Esteypp v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Esteypp v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Esteypp v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Esteypp v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Esteypp v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Fricker v. Actavis	Actavis Group hf	Iceland	Hafnarfjodur, Iceland	
Fricker v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjodur, Iceland	
Fricker v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Fricker v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Fricke v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union
Fricke v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Fricke v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Fricke v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Fricke v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Fricke v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	
Wilson v. Actavis	Actavis Group hf	Iceland	Hafnarfjörður, Iceland	
Wilson v. Actavis	Actavis Group PTC, ehf	Iceland	Hafnarfjörður, Iceland	
Wilson v. Actavis	Actavis Totowa, LLC	Delaware	Little Falls, New Jersey	Passaic
Wilson v. Actavis	Actavis Inc.	Delaware	Morristown, New Jersey	Morris
Wilson v. Actavis	Actavis Elizabeth, LLC	Delaware	Elizabeth, New Jersey	Union

Relevant Defendant Entities

Case Name	Named Defendant	State of Incorporation (Registration)	Principal Place of Business	NJ County
Wilson v. Actavis	Mylan Inc.	Pennsylvania	Pennsylvania	
Wilson v. Actavis	Mylan Pharmaceuticals, Inc.	West Virginia	West Virginia	
Wilson v. Actavis	Mylan Laboratories, Inc., (now known as Mylan Inc.)	Pennsylvania	Pennsylvania	
Wilson v. Actavis	Mylan Bertek Pharmaceuticals, Inc.	Texas	Texas	
Wilson v. Actavis	UDL Laboratories, Inc.	Illinois	Illinois	

NOTICE TO THE BAR

APPLICATION FOR MASS TORT DESIGNATION AND CENTRALIZED MANAGEMENT OF FOSAMAX® LITIGATION

Pursuant to Rule 4:38A and Administrative Directive #10-07, "Mass Torts – Revised Guidelines and Criteria for Designation," an application has been made to the Supreme Court, through the Acting Administrative Director of the Courts, for mass tort designation and centralized management of all Fosamax® litigation in one of the three mass tort sites, and possible coordination with the Zometa/Aredia cases previously designated as a mass tort and assigned to Judge Jamie D. Happs in Middlesex County.

Anyone wishing to comment on or object to this application should provide such comments or objections, with relevant supporting documentation, to Philip S. Carchman, P.J.A.D., Acting Administrative Director of the Courts, P.O. Box 037, Trenton, NJ 08625-0037, **by August 20, 2008**

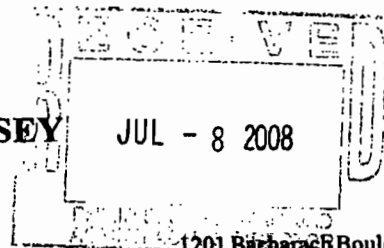
/s/ Philip S. Carchman

Philip S. Carchman, P.J.A.D.
Acting Administrative Director of the Courts

Dated: July 16, 2008



SUPERIOR COURT OF NEW JERSEY
COUNTIES OF
ATLANTIC AND CAPE MAY



1201 Barchess Boulevard
Atlantic City, NJ 08401
609/343-2190

CAROLE HIGBEE
Presiding Judge
Civil

July 3, 2008

Honorable Philip S. Carchman, P.J.A.D.
Acting Administrative Director of the Courts
Administrative Offices of the Courts
Richard J. Hughes Justice Complex
Trenton, NJ 08625

Re: Application for Mass Tort Designation for Cases involving Fosamax®

Dear Judge Carchman:

Pursuant to Rule 4:38A I write to request the Supreme Court of New Jersey consider a mass tort designation for all Fosamax® litigation and centralized management of the litigation before one of the three designated mass tort Judges. The Fosamax® litigation should be reviewed for possible assignment to one Judge and coordination with the Zometa/Aredia cases.

The Zometa/Aredia cases have recently been designated as a mass tort litigation and a few months ago were assigned to Judge Happas in Middlesex. There are presently 84 cases. Fosamax® is a bisphosphonate as are Zometa and Aredia. Bisphosphonates are used in the treatment of bone metastases and for osteoporosis. Fosamax® is prescribed for osteoporosis while Zometa/Aredia are primarily used to treat bone cancer patients. All three drugs are alleged to cause osteonecrosis which results in breakdown of the jaw bone. Although there are certainly differences in the products, they are from the same class of drugs. The science and medical information will overlap and it would result in significant judicial economy if all the cases were coordinated before one Judge.

There are presently thirty-four (34) Fosamax® cases filed in Atlantic County. There are other cases filed in other counties including several in Hunterdon County. There is presently a Federal MDL for Fosamax® so it has been designated a mass tort in the Federal system.

I have discussed this with Judge Happas and she agrees the cases should be before one Judge. She has no objection to having the Zometa/Aredia cases being transferred to Atlantic County if Fosamax® is assigned here. There has only been very preliminary



management of the Zometa/Aredia cases in Middlesex. The Fosamax® cases have not yet had any judicial management. Atlantic County is prepared to proceed with the Fosamax® cases and with transferred Zometa/Aredia cases if the Supreme Court wishes to assign them here.

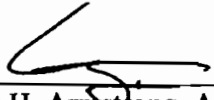
Regardless of where they are managed, it appears that these cases and the judicial system would benefit from a mass tort designation and assignment to one Judge, and I therefore request the Supreme Court review this request.

Very truly yours,


CAROL E. HIGBEE, P.J.Cv.

CEH:cm

As Assignment Judge of Vicinage One, I have designated Judge Carol E. Higbee to make this request for review of the Fosamax® cases for consideration of a mass tort designation pursuant to Rule 4:38.


Valerie H. Armstrong, A.J.S.C.