

# NOTICE TO THE BAR

## MULTICOUNTY LITIGATION APPLICATION FOR DESIGNATION OF NEW JERSEY STATE-COURT FIREFIGHTER HEARING LOSS CASES

The Supreme Court has received an application pursuant to Directive #08-12, "Revised Multicounty Litigation Guidelines," for Multicounty Litigation (MCL) designation of New Jersey state-court litigation alleging occupational hearing loss as a result of excessive noise exposure from certain fire engine sirens manufactured by Federal Signal Corporation.

Anyone wishing to comment on or object to this application should provide such comments or objections in writing, with relevant supporting documentation, by **July 17, 2017** to:

Hon. Glenn A. Grant  
Acting Administrative Director of the Courts  
Attention: MCL Comments – Firefighter Hearing Loss  
Hughes Justice Complex, P.O. BOX 037  
Trenton, New Jersey 08625-0037

A copy of the application submitted to the Court is posted with this Notice on the Judiciary's Internet Website at ([www.njcourts.com](http://www.njcourts.com)) in the Multicounty Litigation Information Center <http://www.judiciary.state.nj.us/attorneys/mcl/index.html>.

/s/ Glenn A. Grant

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

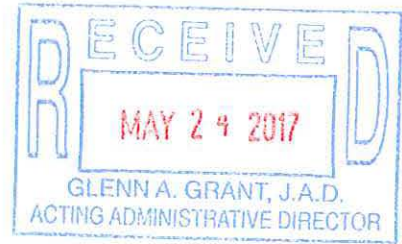
Dated: June 12, 2017



**BERN CAPPELLI LLP**  
**ATTORNEYS AT LAW**

May 23, 2017

Hon. Glenn A. Grant, J.A.D.  
Administrative Office of Courts  
of the State of New Jersey  
25 West Market Street  
Trenton, NJ 08625



**RE: Request for Multi-County Designation of Firefighter Hearing Loss Litigation**

Dear Judge Grant:

Please note our representation of the firefighters with hearing loss actions against Federal Signal Corporation pending in multiple counties of the State of New Jersey. Please accept this letter on behalf of over a hundred firefighters who have cases in five counties involving fire engine sirens designed and built by the Federal Signal Corporation and in use by various fire departments statewide<sup>1</sup>. Plaintiffs are requesting a Multi-County Litigation designation in accordance with Rule 4:38A. Plaintiffs filed their Complaints alleging that they suffered occupational hearing loss as a result of excessive noise exposure while working for the various fire departments in New Jersey. In their Complaints, Plaintiffs alleged that Federal Signal was strictly liable for defects in the design and construction of its mechanical "Q" fire engine siren and the electronic e-Q type fire engine sirens. Specifically, the Plaintiffs claimed that the sirens were unnecessarily designed to emit omni-directional sound which, over the course of time, permanently damaged the firefighters' hearing.

**BACKGROUND**

This litigation is but one facet of a nationwide series of actions against the Defendant, Federal Signal Corporation, by firefighters who are seeking redress for high frequency hearing loss caused by the Federal Signal Sirens. The Federal Signal products at issue are their electro-mechanical "Q" siren and the electronic e-Q. As designed, these sirens project sound in a full 360 degrees from the sirens.

The industry standard for emergency sirens is set by the Society of Automotive Engineers' standard SAE J1849 which sets decibel levels for sound directly in front of the siren and 50 degrees to each side of direct center of the forward center line of the siren. In other words, the only points of inquiry for determining whether an emergency vehicle siren is acceptable to prevailing industry standards is in a 100-degree wedge centered on the front of the

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<sup>1</sup> A list of the current actions is attached hereto as Exhibit 1.



vehicle. In theory, a siren could be silent at all points beyond that arc and still meet the current industry standards.

It is the Plaintiffs' position that the sirens, as designed and built, are a danger to the end users-the firefighters who are continually exposed to the sirens' high frequency sounds due to the design which emanates sound in all directions including directly to the rear into the cab of the fire engines.

The result of long term exposure to the high intensity sound levels produced by the sirens is high frequency hearing loss which is permanent and irreversible. Additionally, as a result of the exposure to the siren's sound output, the firefighter may also suffer from tinnitus (ringing in the ears).

#### ARGUMENT FOR COORDINATION

Pursuant to the guidelines for a multi-county designation the matter should involve: a large number of parties; claims with common, recurrent issues of law and fact associated with a single product; geographical dispersment of the parties; commonality of injuries; there is a value interdependence between claims and; there is a remoteness between the court and the actual decision makers in the litigation. This litigation meets the criteria for a multi-county designation. All cases involve a design defect of the Federal Signal mechanical and/or electronic sirens which results in overlapping factual liability issues regarding the design of the sirens. Moreover, if multi-county status is granted, the Plaintiffs will move for bifurcation which would expedite, rather than delay, the proceedings and due to the multi-county status, will not result in the duplication of evidence and, furthermore, bifurcation will not create the risk of inconsistent verdicts.

Additionally, bifurcation is appropriate where, for example, deciding the issue of liability first might save the court, and the trier of fact, from the burden of having to rule on complex issues of damages. Instantly, bifurcation on the issue of liability, would, if the Defendant prevails, clear the Court's docket. In the alternative, if the Plaintiffs prevail it would be a powerful factor to induce substantive settlement talks prior to the damages phase of the litigation.

#### ARGUMENT FOR DESIGNATION OF BERGEN COUNTY

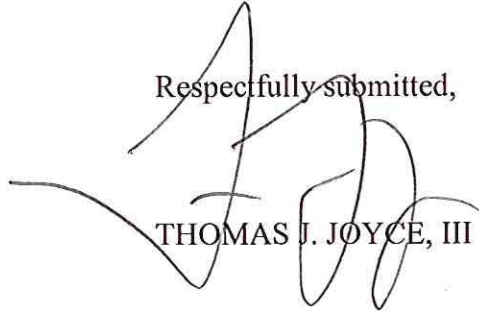
Issues of fairness, geographical location of the parties and attorneys and the existing civil and mass tort caseload of the vicinage will be considered in determining which vicinage a particular MCL will be assigned for centralized management. *New Jersey Multi-County Litigation Resource Book*, Fourth Edition, p.5. Instantly, the vast majority of actions are located in the northern tier counties of New Jersey. Furthermore, Federal Signal's local counsel, McCarter & English is located in Newark, Essex County. Finally, Defendant's national counsel, Thompson Coburn, which is headquartered in Chicago, would find easy access to the Court via Newark International Airport.



With regards to the current caseloads of the available jurisdictions, Bergen and Middlesex Counties each have seven MCLs while Atlantic County has four. However, since the majority of the cases stem from northern New Jersey and due to the location of the Defendant's counsel, this more than militates against an assignment to a location other than Bergen County.

For the reasons set forth above, Plaintiffs respectfully request that the Supreme Court designate Federal Signal/firefighter hearing loss cases as a Multi County Litigation in the Superior Court of New Jersey, Bergen County - Law Division. Thank you for your time and consideration.

Respectfully submitted,



THOMAS J. JOYCE, III

cc: David Duffy, Esquire  
Gary Tulp, Esquire



## EXHIBIT 1

<b>COUNTY</b>	<b>CAPTION</b>	<b>DOCKET NUMBER</b>
Cape May	Eckhold, et al. v. Federal Signal	CPM L-000194 16
Essex	Alessi, et al. v. Federal Signal	ESX L-000672 16
	Allen, et al. v. Federal Signal	ESX L-003418 16
Hudson	Aiello, et al. v. Federal Signal	HUD L-000464 16
	Hoover, et al. v. Federal Signal	HUD L-001946 16
Morris	Carbone, et al v. Federal Signal	MOR L-001019 16
Middlesex	Caswell, et al. v. Federal Signal	MID L-0003153 16
Union	Amasio, et al. v. Federal Signal	UNN L-000352 16