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VIA OVERNIGHT DELIVERY

Hon. Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

Administrative Office of the Court of the State of New Jersey

Richard J. Hughes Justice Complex

25 W. Market Street

Trenton, New Jersey 08625

Re: Application Pursuant to Rule 4:38A to Designate: *In re Singulair Litigation* as a Multicounty Litigation for Centralized Management.

Dear Judge Grant:

Plaintiffs respectfully submit this letter application requesting the designation of a Multicounty Litigation (“MCL”) for centralized management titled: *In re Singulair Litigation*. Plaintiffs request that the MCL be assigned to either Bergen County or Middlesex County.

Twenty cases involving neuropsychiatric injuries arising from ingestion of the prescription drug Singulair have been filed by Beck Law Center (“BLC”) and Wilentz, Goldman & Spitzer (Wilentz) in Middlesex County and Union County. BLC and Wilentz are currently vetting over 100 additional clients. More potential plaintiffs continue to contact counsel every week. Moreover, at least two other law firms also have clients who have suffered similar injuries caused by Singulair. Wilentz has been litigating Mass Tort cases in New Jersey for more than forty (40) years. BLC has performed extensive legal and factual analysis in support of these claims, represents the filed plaintiffs, and will be seeking *pro hac vice* admission as soon as it is known where the matters will be venued.

BACKGROUND

This application involves twenty cases currently pending in Superior Court of New Jersey (identified on the attached Schedule of Actions (“Actions”)), and dozens of additional cases likely to be filed in New Jersey in the near future. Plaintiffs in the Actions have brought claims against Merck & Co., Inc. and Merck Sharp & Dohme Corp. (referred to together as “Merck”), the maker of the prescription asthma and allergy drug, Singulair. As a result of their ingestion of Singulair, Plaintiffs developed neuropsychiatric injuries, including tics, tremors, stuttering, obsessive-compulsive disorder, depression, and/or suicidality.

Singulair has been on the market for over 22 years. Prior to the time Merck’s generic competitors entered the market in 2012, Singulair sales were as high as \$3.3 billion dollars annually, so this was a widely used drug.

In March of 2020, FDA required Merck to include a black box warning on Singulair’s label to highlight the risks of neuropsychiatric injuries and the extensive history of adverse event reports regarding neuropsychiatric injuries. Only then did the public begin to realize that the neurologic injuries – suffered mostly by children – had been caused by Singulair. As this information becomes more widely known significant additional injured parties may come forward.

ARGUMENT

This litigation meets the criteria set forth in Directive #8-12 for Centralized Case Management. Further, consolidation of the Actions furthers the interests of efficiency and conservation of judicial resources. Accordingly, Plaintiffs respectfully request that these Actions be consolidated for case management in either Bergen County or Middlesex County.

I. Consolidation Furthers the Interests of Fairness and Efficiency.

a. Application of Directive #8-12 Favors Consolidation.

The Actions and those that will be filed against Merck in the future warrant consolidation. Already, twenty cases have been filed and many more are likely to be filed in the coming weeks.

All the cases are similar with common claims and recurrent issues of law. Every plaintiff was injured as a result of ingesting the same pharmaceutical product – Singulair. Every case has been brought against the same defendants. Further, every plaintiff suffered neuropsychiatric injury. Common issues predominate, such as logistics issues regarding scheduling and discovery as well as legal questions regarding defects in labeling and design, causation, and whether defendants had knowledge of various risks associated with the product at various times.

The value of each claim is likely to be at least partially dependent on the claims of the other plaintiffs in the Actions. Currently, there is only one Singulair case pending outside of New Jersey: *Hammar, et al. v. Merck, et al.*, case no. 20-cv-1402, United States District Court,

Eastern District of Wisconsin. The parties in *Hammar* have agreed to limited initial discovery regarding “innovator liability,” which is underway. To date, Plaintiffs have produced pharmacy and medical records. Defendants are in the process of reviewing New Drug Applications and other regulatory documents for production. There are no other known cases in federal Court and no MDL application is pending.

As described above, the weight of the Directive #8-12 considerations favor consolidation. Further, consolidation of these cases will increase efficiencies for the court and the parties without causing delay.

b. Additional Considerations of Efficiency Favor Consolidation.

Consolidation and centralization will conserve judicial resources, decrease expense of the parties, avoid conflicting rulings, and serve the interests of fairness and consistency. This is a complex pharmaceutical litigation with two large pharmaceutical company defendants. Any judge who presides over one or more Action will need to learn the 23-year regulatory history of Singulair, the properties of Singulair’s active ingredient montelukast, the mechanisms within the human body through which montelukast causes harm, including its propensity to cross the blood-brain barrier. The judge or judges would need to understand the impetus of label changes. In addition, the attorneys will need to educate the judge or judges regarding the delicate chemical and neurologic changes within the developing human brain, including which purported alternative causes are applicable under various conditions. In short, these Actions will require the development of specialized knowledge. Requiring multiple judges to gain the same specialized knowledge to handle substantially identical cases throughout the state is a waste of valuable resources. The nineteen (19) filed matters have been assigned among thirteen (13) different Judges. Judicial economy is a particularly compelling consideration at this time given the substantial number of judicial vacancies and the extensive backlog caused by Covid-19.

None of the cases filed in New Jersey have progressed beyond the filing of the Complaints. Plaintiffs stipulated to extensions of time and Defendants have not yet filed Answers. Therefore, transferring and consolidating the Actions would not cause any delay to the resolution of these cases. None of the parties are at risk of suffering prejudice. Plaintiffs, accordingly, request the Actions be consolidated and centralized.

II. Convenience Factors Favor Consolidation and Transfer to Either Bergen County or Middlesex County.

The Northern and Central MCL venues – Bergen County and Middlesex County – are more convenient than Atlantic County for all parties. BLC and all plaintiffs in the Actions that have been filed and many plaintiffs in cases that are yet to be filed are located outside of New Jersey. Bergen and Middlesex are more accessible to those who would need to fly in order to attend proceedings, as both counties are reasonably close to Newark Airport. Additionally, Merck’s headquarters is located in Readington Township, Somerset County, and it has substantial operations in Union County which are closer to the MCL Judge in either Bergen

County or Middlesex County. Plaintiffs, therefore, ask the Court to transfer the Actions to either Bergen County or Middlesex County.

CONCLUSION

On behalf of Plaintiffs it is respectfully submitted that the considerations of Directive #8-12 have been satisfied, and respectfully requested that *In re Singulair Litigation* be designated as Multicounty Litigation for Centralized Management and be assigned to either Bergen County or Middlesex County for efficient administration.

By: 
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cc: Eileen Muskett, Esq., Counsel for Defendant Merck (via email)
Kimberly Beck, Esq. (via email)

Case	Case No.	Judge	Defendant's Atty
Ramos, Elisa vs. Merck & Co., Inc., et al.	UNN-L-747-21	Thomas J Walsh	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Zimmerman, Dora vs. Merck & Co., Inc., et al.	UNN-L-745-21	Daniel R Lindemann	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Patterson, Paula vs. Merck & Co., Inc., et al.	UNN-L-744-21	Alan G Lesnewich	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Jackson, Alexander vs. Merck & Co., Inc., et al.	UNN-L-741-21	Mark P Ciarrocca	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Holt, Judy vs. Merck & Co., Inc., et al.	UNN-L-740-21	Thomas J Walsh	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Bradley, Jonathan vs. Merck & Co., Inc., et al.	UNN-L-739-21	Alan G Lesnewich	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Levi, Michael vs. Merck & Co., Inc., et al.	UNN-L-742-21	Karen M Cassidy	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Cross, Thomas vs. Merck & Co., Inc., et al.	UNN-L-738-21	John G Hudak	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Sanders, Jacqueline vs. Merck & Co., Inc., et al.	UNN-L-746-21	Dara A Govan	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Maldonado, Adrienne vs. Merck & Co., Inc., et al.	MID-L-3573-21	J R Corman	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Merriam, Danna vs. Merck & Co., Inc., et al.	MID-L-3574-21	J R Corman	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Boeck, Katherine vs. Merck & Co., Inc., et al.	MID-L-3567-21	Michael V Cresitello Jr	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Cruz, Ann vs. Merck & Co., Inc., et al.	MID-L-3569-21	Dennis Nieves	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Lacroix, Elizabeth vs. Merck & Co., Inc., et al.	MID-L-3572-21	J R Corman	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Green, Kayla vs. Merck & Co., Inc., et al.	MID-L-3571-21	Dennis Nieves	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Snyder, Aviva vs. Merck & Co., Inc., et al.	MID-L-3577-21	Alberto Rivas	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Nikolai, Jodi vs. Merck & Co., Inc., et al.	MID-L-3576-21	Joseph Rea	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Forte, Rebecca Ann vs. Merck & Co., Inc., et al.	MID-L-3570-21	Dennis Nieves	Eileen Oakes Muskett - FOX ROTHSCHILD LLP
Albanil, Jesse vs. Merck & Co., Inc., et al.	MID-L-3568-21	Michael V Cresitello Jr	Eileen Oakes Muskett - FOX ROTHSCHILD LLP