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July 6, 2021

VIA FEDEX AND EMAIL

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

Re: April 30, 2021 Application Pursuant to R. 4:38A Request for Multi-County Litigation Designation for Strattice Hernia Mesh Products

Dear Judge Grant:

This firm, along with Tucker Ellis LLP, represents Defendants LifeCell Corporation, Allergan, Inc., and Allergan USA, Inc. (collectively, "Defendants") in cases involving several different STRATTICE™ Reconstructive Tissue Matrix ("Strattice") products. These cases are the subject of a R. 4:38A Multi-County Litigation ("MCL") application filed by Plaintiffs with the Administrative Office of the Courts ("AOC"). The AOC issued a Notice to the Bar on June 3, 2021 requesting comments or objections by July 6, 2021.

Plaintiffs' MCL application should be denied because there is no compelling need for coordination, the cases involve highly individualized issues, and MCL creation can have the opposite effect of overburdening the court system by incentivizing mass filings. With over 97% of cases filed by the same group of plaintiffs' firms and all cases but one pending in the Superior Court of New Jersey for Morris County,[1] the parties are already coordinating the cases in an efficient manner within the framework set by each case management order. And although Plaintiffs attempt to paint the litigation with one broad, substantive brush, the cases involve dozens of plaintiffs (only one of whom lives in New Jersey) alleging the implantation of numerous Strattice products in multiple variations by a multitude of different physicians spanning more than a decade. Plaintiffs further allege a host of disparate, unrelated injuries rather than any signature injury, and the majority of cases are time-barred on their face. Last, the Strattice product line has been on the market since 2007 without any significant safety-related events. Unlike the recalled products frequently associated with coordinated litigation, MCL creation will not address any existing issue; rather, it would incentivize Plaintiffs to file as many cases as possible with little regard for the need to vet them first. Continued individualized treatment is not only possible, it is the best way to quickly and efficiently resolve these cases and avoid a flood of meritless claims.

[1] One case (the only case involving a New Jersey resident) was filed in Union County, and can easily be transferred to Morris County for consolidation.

Every year, over one million hernia repair procedures are performed in the United States.[2] The majority of these procedures involve the use of surgical mesh, which is associated with a consistently reduced recurrence rate as compared to hernia repair without surgical mesh.[3] As with any implantable device, mesh placement for hernia repair comes with potential risks, such as infection, erosion, and pain that are well-known within the medical community.[4] Available surgical meshes for hernia repair are primarily composed of either synthetic materials or animal tissue (biological mesh). The type of mesh selected for use with a particular patient depends on numerous factors, including surgeon preference, hernia type and location, and the individual patient's medical conditions and surgical history.

Beginning in late December 2020, Plaintiffs began filing complaints in the Superior Court of New Jersey for Morris County alleging product liability claims from various Strattice products. ***No recall, warning change, or negative journal article preceded the filings.*** Rather, Strattice products have been on the market in the United States since 2007 when they were first cleared by the Food and Drug Administration ("FDA"). Over that time, numerous studies have confirmed its safety and efficacy. Following the initial Strattice 510(k) clearance in 2007, the FDA went on to clear several subsequent iterations of Strattice, in 2008, 2010, 2015, and most recently in 2016. The products are derived from porcine dermis and have many different uses. Specific to the treatment of abdominal hernias, they fill multiple needs for physicians to this day – providing an alternative to the synthetic hernia meshes that have been the focus of thousands of products liability lawsuits over the past several years.

Strattice products come in dozens of varieties. Some versions are indicated for particular types of hernias or surgical approaches, while others have broad application. Although Defendants are still matching the products alleged in the Complaints to those identified within Plaintiffs' medical records produced to date, it is readily apparent that the cases do not involve a single product. Instead, Plaintiffs seek a "shotgun" approach to this litigation without regard for the different traits, processing, and uses of Strattice products, or the alleged injuries associated with any of those products.

Strattice products have been on the market for almost fourteen years, without any applicable recall as to the effectiveness of Strattice, and Plaintiffs' alleged implantations span nearly all of that time period:

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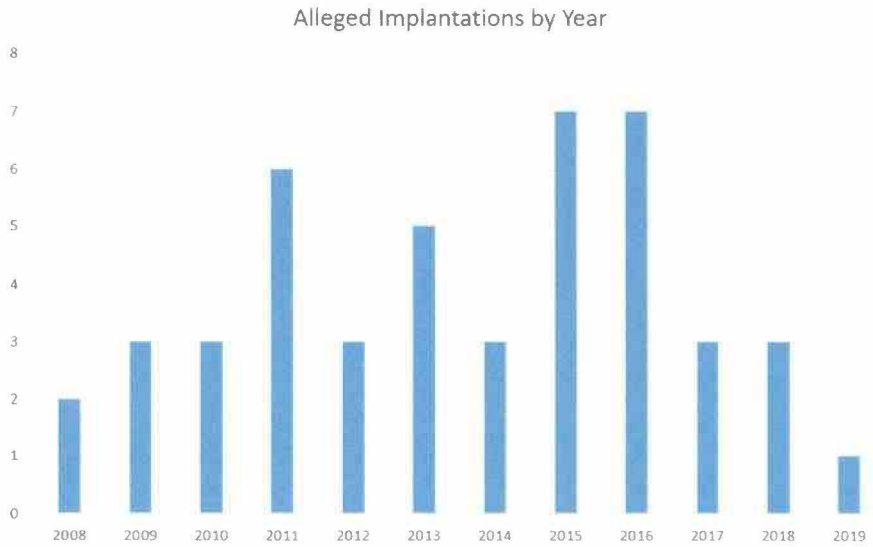
[2] *See* U.S. Food & Drug Administration, Hernia Surgical Mesh Implants, *available at* https://www.fda.gov/medical-devices/implants-and-prosthetics/hernia-surgical-mesh-implants (last accessed July 2, 2021).

[3] *Id.*; *see also* American Hernia Society ("AHS"), Mesh Advisory Statement for Patients, *available at* https://americasherniasociety.org/patient-education/mesh-advisory-statement (last visited July 2, 2021) (emphasizing that non-mesh techniques have not worked well for most abdominal wall hernia repairs).

[4] AHS, Mesh Advisory Statement for Patients (explaining further that "[i]t is important to recognize that some of these complications are also seen in surgeries that do not utilize mesh").



The cases allege a host of different injuries, many of which are a well-known risk of any hernia repair procedure, with or without the use of mesh. Included among the injuries alleged to date are:

- recurrent hernia or repair;
- bowel obstruction;
- infection;
- abscess;
- unincorporated mesh;
- mesh tearing;
- mesh erosion;
- fistula;
- adhesions;
- seroma;
- hematoma;
- pain; and
- death.

Plaintiffs make no effort to identify any unique causal connection between any Strattice product and the alleged injuries, nor can they. They have merely brought suit over injuries that can occur with any synthetic hernia mesh, biologic hernia mesh, and (in most instances), no mesh at all. Plaintiffs instead paint all "mesh products" with the same broad brush, and desire for this Court to do the same. *See* Plaintiffs' MCL application at p. 3 (suggesting that Strattice cases should be centralized simply because "New Jersey has in the past consolidated cases involving mesh products").

Last, a significant percentage of the cases are clearly time-barred on their face. Defendants will raise this issue when appropriate, but it is anticipated that a large portion of the relatively small

number of cases filed to date can be disposed of on motion practice without significant discovery or burden on the courts.

ARGUMENT

In their MCL application, Plaintiffs do not look beyond a handful of the characteristics possessed by MCL cases when arguing that MCL designation is warranted. With little more than a paragraph's analysis, Plaintiffs then conclude that these characteristics "compel the granting of [their] application." But, Plaintiffs offer no specific reason that coordination is appropriate here, beyond the fact that a number of them have chosen to file suit against a class of products in New Jersey. If this were the bar for MCL designation, one wonders what circumstances would not "compel" the same result.

A fulsome review of the characteristics cited in Plaintiffs' MCL application – as well as the remaining criteria not mentioned – demonstrates that MCL creation would serve only to hinder the progress of this litigation while establishing a haven for attorneys looking to file complaints without having to put in any work. Plaintiffs' application should be denied.

1. There is no compelling need for coordination because the parties are already coordinating the litigation within the existing case management orders.

With the same law firms driving over 97% of the cases and all filings in Morris County (except one), the parties have been coordinating the litigation within the case management orders from the outset. Of the cases filed to date, all but one was brought by the same group of four law firms: 1) The Braslow Firm, LLC; 2) Ketterer, Browne & Anderson, LLC; 3) Nix Patterson, L.L.P.; and 4) Cohen & Malad, LLP. Defendants are represented in all cases by Tucker Ellis LLP and Lowenstein Sandler LLP. As a result, the parties are already working together on:

- uniform and special discovery requests;
- securing the necessary authorizations to collect medical records;
- an ESI protocol;
- a protective order; and
- Defendants' general document production to be used for all cases.[5]

MCL designation therefore presents no advantage to discovery that does not already exist. *See In re: Linear Gadolinium-Based Contrast Agents Products Liab. Litig.*, Case MDL No. 2868, Oct. 10, 2018 Order Denying Transfer (J.P.M.L.) (emphasizing that consolidation was unwarranted because the same firm or firms working as co-counsel represented plaintiffs in most actions, which minimized the possibility of duplicative discovery); *In re: Adderall XR (Amphetamine/Dextroamphetamine) Mktg., Sales Practices & Antitrust Litig.*, 968 F. Supp. 2d 1343, 1345 (J.P.M.L. 2013) (explaining that where litigation involves only a small number of law firms, "informal cooperation among the involved attorneys and coordination between the involved

[5] This coordinated work also demonstrates the lack of any remoteness between the court and the actual decision-makers in the litigation. The very parties that are negotiating the issues that will drive the bulk of discovery are those that would appear before a Morris County judge at a case management conference.

courts" is preferable to centralization). Indeed, MCL creation may very well complicate or undo the substantial progress being made should its attention draw other firms that ultimately serve as leadership instead of the firms currently involved. MCL formation generally results in the creation of a "Common Benefit Fund" to provide additional compensation for plaintiffs' attorneys. *See In re Proceed Mesh Litig.*, Master Case No. ATL-L-794-19, Case No. 630, Order re: Management of Timekeeping, Cost Reimbursement, and Related Common Benefit Issues (Oct. 17, 2019) (attached as Ex. A). This encourages additional firms to take on cases, ultimately increasing litigation costs and reducing overall efficiency. Moreover, the likelihood of duplicative or inconsistent rulings is significantly lessened here because all of the cases are in the same county before a relatively small set of judges.

Plaintiffs' MCL application does not even address the workability of the current framework governing the Strattice cases, much less provide argument or evidence that centralization would impart any comparative benefits. *See* Plaintiffs' MCL application at pp. 2-3 (merely regurgitating the multi-litigation guidelines and providing conclusory statements applying them to the Strattice cases). That "New Jersey has in the past consolidated cases involving mesh products" (id. at p. 3) does not exempt Plaintiffs' counsel from demonstrating that centralization is preferable to other methods. *In re: Linear Gadolinium-Based Contrast Agents*, Oct. 10, 2018 Order (emphasizing that litigation centralization "should be the last solution after considered review of all other options") (attached as Ex. B) (citing *In re: Best Buy Co., Inc., Cal. Song-Beverly Credit Card Act. Litig.*, 804 F. Supp. 2d 1376, 1378 (J.P.M.L. 2011)).

2. The cases are highly individualized, not dominated by a single product, injury, set of facts, or time period.

MCL designation should further be denied because individual issues overshadow any recurrent fact issues, commonality of injury, and value interdependence between cases. As noted above, this is not a litigation in which a geographically diverse set of plaintiffs brings suit against a product over a signature injury. *C.f., e.g., In re: Allergan Biocell Textured Breast Implant Products Liab. Litig.*, Case No. 634. This is an attempt to consolidate:

- many products;
- varying in multiple ways;
- with several different applications and surgical approaches;
- implanted by several dozen different surgeons over the course of more than a decade (2008 to 2019); and
- allegedly resulting in a dozen different types of injury (recurrent hernia or repair, bowel obstruction, infection, abscess, unincorporated mesh, mesh tearing, mesh erosion, fistula, adhesions, seroma, hematoma, pain, and death).

The unique facts inherent in any particular product implanted by any one doctor in any one plaintiff and resulting in any one injury, coupled with Defendants' knowledge at that particular time, means that common issues of fact and value interdependence are unlikely to have a significant impact on this litigation.

And when combined with the statute of limitations defenses presented in many of the cases, that limited commonality only lessens. For example, of the twenty-one cases listed with the MCL application, only six filed their case within two years of a revision surgery.[6] And of the fifteen cases that failed to file within two years of a revision surgery, eight had revision surgeries more than five years before they filed complaints, and two waited nearly a decade after their first revision surgery to bring a claim.

3. The risk that centralization will unreasonably increase the expense and prejudice to Defendants and burden on the courts is high.

Time and again, centralized litigation has increased the cost and prejudice to defendants while overburdening courts and disincentivizing the actual work that moves cases through dockets. As Judge Clay Land stated in the *In re Mentor Corporation ObTape Transobturator Sling Products Liability Litigation*:

> Although one of the purposes of MDL consolidation is to allow for more efficient pretrial management of cases with common issues of law and fact, the evolution of the MDL process toward providing an alternative dispute resolution forum for global settlements has produced incentives for the filing of cases that otherwise would not be filed if they had to stand on their own merit as a stand-alone action. Some lawyers seem to think that their case will be swept into the MDL where a global settlement will be reached, allowing them to obtain recovery without the individual merit of their case being scrutinized as closely as it would if it proceeded as a separate individual action.

2016 U.S. Dist. LEXIS 121608, at *5 (M.D. Ga. Sept. 7, 2016), attached as Ex. C. That the majority of Strattice filings at issue are facially time-barred exemplifies the perverse results that can occur with consolidation or the prospect thereof. *Id.* (emphasizing that the above described attitude of lawyers in the MDL context "explains why many cases are filed with little regard for the statute of limitations. . .").

New Jersey's MCL system witnessed this phenomenon firsthand with the Accutane litigation. After creating an MCL for the Accutane litigation, the number of cases grew to roughly 7,800. But despite the mass of filings and years of protracted litigation for the courts, nearly all of the cases ended on dispositive motion practice or were voluntarily dismissed by the plaintiffs.

This is simply not the sort of litigation that calls for centralization. There has been no significant recall, warnings change, or negative journal publication driving the lawsuits. There is no federal MDL or other state coordinated proceeding involving Strattice products that requires coordination with a single New Jersey judge. And no part of the cases calls for the specialized expertise and case processing of a dedicated MCL judge or staff.

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[6] New Jersey applies a 2-year statute of limitations to product liability and personal injury claims. *See* N.J.S.A. § 2A:14-2.

CONCLUSION

There is no need for MCL designation in cases involving Strattice products. The parties are already working together to coordinate where appropriate, and otherwise work-up the cases within their existing case management orders. Allowing that process to continue is the best way for the courts to ensure that the merits of these cases are tested without needlessly inundating the courts with yet another mass of products liability filings. Plaintiffs' MCL application should therefore be denied.

Respectfully submitted,

David W. Field

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July 8, 2021

VIA FEDEX AND EMAIL

The Honorable Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
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Richard J. Hughes Justice Complex
25 West Market Street
Trenton, New Jersey 08625

Re: July 6, 2021 Supplemental Application Pursuant to R. 4:38A Request for Multi-County Litigation Designation for Strattice Hernia Mesh Products

Dear Judge Grant:

This letter is in response to Plaintiffs' July 6, 2021 supplemental MCL application, which was submitted after Defendants submitted their Reply to Plaintiff's original application. Plaintiffs' supplemental filing, which identified additional Strattice case filings and made further argument in support of their original application, does not, however, alter the conclusion that centralization is not warranted under the criteria set forth by New Jersey's Multicounty Litigation Guidelines (Directive #02-19).

First, even with additional filings, the 52 cases filed to date do not involve a single product that is alleged to have resulted in any signature injury. See Directive #02-19 (factors in determining whether MCL designation is warranted include whether the cases involve many claims **"with common, recurrent issues of law and fact that are associated with a single product"**) (emphasis added). The cases instead regard the implantation of numerous different Strattice products in multiple variations, implanted by many different physicians using many different surgical techniques, allegedly resulting in an assortment of distinct and unrelated injuries. (See Defendants' July 6, 2021 Reply to Plaintiffs' April 30, 2021 Application, at pp. 2-3, 5-6). While Plaintiffs emphasize that more claims now have been filed, the highly individualized nature of those claims makes consolidation inappropriate under New Jersey's MCL criteria.

Second, Plaintiffs provide no support for their assertion that "[d]iscovery disputes are anticipated." (Plaintiffs' supplemental MCL application, at p. 1). Rather, the parties have been working together to coordinate discovery efforts across cases in an efficient manner. (*See* Defendants' July 6, 2021 Reply, at p. 4). The parties recently filed a status report applicable to several Morris County cases that reflects the parties' efficient coordination to date. (*See* July 6, 2021 Discovery Status Letter, David W. Field and Derek T. Braslow to Honorable Stuart A. Minkowitz (attached as Exhibit A)). The parties have exchanged written discovery demands and agreed to a written response date affecting these cases; agreed to a medical authorization form for

all cases; are negotiating an agreed protective order, privilege log protocol, and electronic discovery protocol; and have agreed that Defendants will begin producing documents across cases, with substantial completion by September 24, 2021. (*Id.*) All of the Strattice cases have been filed in Morris County, with the exception of a single case filed in Union County. (*C.f.* Plaintiff's supplemental MCL application, at p. 1 (stating cases have been filed in "multiple venues")). Plaintiff has not shown – or even attempted to show—that an MCL judge or staff would impart any advantage over the current Morris County framework under which the parties have been cooperating.

Given the efficient discovery processes the parties have already implemented, centralization is not only unwarranted, but poses a risk of undoing the substantial progress made to date. (*See* Directive #02-19 (including consideration of "risk that centralization may unreasonably delay the progress, increase the expense, or complicate the processing of any action")). And, centralization poses a significant risk of increasing litigation costs and disincentivizing the work-up of filed cases, particularly in the context of litigation involving a small number of law firms with cases pending in a single venue. (*See* Defendants' July 6, 2021 Reply, at pp. 5-6). Informal coordination is not only workable, but preferable here.

In sum, Plaintiffs' repeated assertion that "consolidation is crucial and necessary" merely because Plaintiffs have filed a substantial number of cases falls flat. A closer look at the specific factual circumstances surrounding the Strattice filings reveals that Plaintiffs' conclusory recitations of the New Jersey criteria fall far short of demonstrating that MCL designation is warranted.

Respectfully submitted,

David W. Field

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EXHIBIT A

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July 6, 2021

VIA ELECTRONIC MAIL AND E-FILING

Honorable Stuart A. Minkowitz, J.S.C.
Morris County Courthouse
Washington & Court Streets
P.O. Box 910, 2nd Floor
Morristown, NJ 07963

Re: ***Alexander v. LifeCell Corporation, et al.*, Docket No. MRS-L-175-21**
***Bunce v. LifeCell Corporation, et al.*, Docket No. MRS-L-176-21**
***Harrell v. LifeCell Corporation, et al.*, Docket No. MRS-L-275-21**
***Raszeja v. LifeCell Corporation, et al.*, Docket No. MRS-L-276-21**

Dear Judge Minkowitz:

On April 30, 2021, Plaintiffs submitted an MCL application pursuant to pursuant to Rule 4:38A to consolidate in multicounty litigation these cases as well as other cases. The application remains pending and Defendants plan to oppose it. Notwithstanding the foregoing, and without waiving any rights related to the application, undersigned counsel for each of the parties in the above matters hereby submit this joint letter to the Court regarding the status of discovery, pursuant to this Court's Initial Case Management Orders dated March 31, 2021. The status of discovery is as follows:

1. The parties have provided responses to Uniform Interrogatories. The parties have also exchanged written discovery demands and mutually agreed to a written response date of July 22, 2021.

2. The parties have mutually agreed to a medical records authorization form for all cases and plaintiffs' counsel are in the process of securing signed authorizations so records collections can begin.

3. The parties are currently negotiating an agreed protective order and privilege log protocol with the expectation that these agreements will be finalized on or around July 9, 2021. The parties are also commencing negotiations regarding an electronic discovery protocol. The parties are also scheduling a telephone call to discuss Defendants' ESI and corporate structure.

4. Subject to the finalization of the protective order and privilege log protocol, the parties have mutually agreed that Defendants shall begin making a rolling document production applicable to all cases beginning July 16, 2021 with substantial completion of the document production by September 24, 2021. The parties have agreed that all documents pertaining to general discovery produced by Defendants may be used in all cases.

5. Subject to the grant or denial of Plaintiffs' MCL application, the parties intend to complete all discovery by the CMO deadline of May 28, 2022.

6. Subject to the grant or denial of Plaintiffs' MCL application, the parties otherwise agree to maintain the deadlines set forth in the CMOs in these cases.

We are available to provide further information to the Court, as required.

Respectfully submitted,

s/David W. Field
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July 30, 2021

VIA FEDEX AND EMAIL

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

Re: July 28, 2021 "Second Supplemental" Application Pursuant to R. 4:38A Request for Multi-County Litigation Designation for Strattice Hernia Mesh Products

Dear Judge Grant:

As set forth in prior correspondence, this firm, along with Tucker Ellis LLP, represents Defendants LifeCell Corporation, Allergan, Inc., and Allergan USA, Inc. (collectively, "Defendants") in cases involving several different STRATTICE™ Reconstructive Tissue Matrix ("Strattice") products. The cases originally were the subject of a R. 4:38A Multi-County Litigation ("MCL") application filed by Plaintiffs with the Administrative Office of the Courts ("AOC"). The AOC issued a Notice to the Bar on June 3, 2021 requesting comments or objections by July 6, 2021, to which Defendants timely responded. Importantly, no other plaintiffs or plaintiffs' firms served letters in support of consolidation.

The original group of plaintiff attorneys filed a July 6, 2021 "Supplement" to the MCL application and recently filed a July 28, 2021 "Second Supplemental" application. As an initial matter, both filings are procedurally improper and should not be considered. Directive # 02-19 (February 22, 2019) sets forth in detail the process to seek MCL designation: "Once the comment period has closed, the Administrative Director of the Courts will present the application, along with a compilation of any comments and objections received, to the Supreme Court for its review and determination." Here, the Administrative Director closed the comment period for Plaintiffs' April 30, 2021 MCL Application on July 6, 2021. Nothing in the rules provides for a "Supplemental" or "Second Supplemental" application to be submitted, nor do these additional filings allow for comment or objections, as the Directive contemplates.

In addition to being procedurally improper, the arguments in Plaintiffs' "Second Supplemental" application substantively lack merit. Plaintiffs first cite to other "consolidated hernia mesh cases" as support for their application, but those matters are not like this litigation, where all but one of the cases are filed in one New Jersey county by one group of plaintiff lawyers. This litigation is not the type of sprawling, multi-district, multi-firm litigation involved in those consolidated matters. *Cf. In re: Davol, Inc./C.R. Bard, Inc., Polypropylene Hernia Mesh Products Liability Litigation*, 316 F.Supp.3d 1380 (J.P.M.L. 2018) (noting that the consolidation motion "involved

53 actions pending in 21 different districts" and an additional "69 potentially-related actions pending in 27 districts"). Indeed, given the lack of supportive public comments by any other plaintiff firms in the Strattice cases, it does not appear that this litigation will ever reach the size or complexity of other consolidated hernia mesh litigations.

Plaintiffs go on to repeat their cliché arguments in support of their "need" for consolidation, such as "one product," "similar issues," "fear of inconsistent rulings," and "waste of resources." In its earlier filing, Defendants showed how those concerns are exaggerated in this litigation, in which individual causation and statute of limitation issues, among others, predominate. But, even so, Plaintiffs do not explain why coordination and efficiencies cannot be accomplished outside an MCL proceeding. With one set of lawyers handling virtually all of the plaintiff cases – and each of those in the same county – the parties should work and actually have worked to streamline case management, discovery and document production in the first months of this litigation. Contrary to Plaintiffs' suggestion, Defendants believe the Morris County judges are more than capable of handling and coordinating a few dozen cases. In fact, as set forth in the attached joint status reports, the Morris County courts already have accepted the parties' coordination efforts in the earlier-filed Strattice cases. (Exhibits 1 and 2, attached.)

The thinly-veiled reason Plaintiffs actually want MCL consolidation is to avoid individual scrutiny of their mostly time-barred cases as long as possible and to park these cases and newly-filed ones in an MCL coordinated proceeding to avoid their own burden and expense. But New Jersey's MCL coordination rules should not be used as a pawn for plaintiff counsel's economic strategies. Federal District Judge Clay Land's previously-cited order particularly is fitting in this case, as Plaintiffs are hoping to have their cases "swept into the [MCL] where a global settlement will be reached, allowing them to obtain recovery without the individual merit of their case being scrutinized as closely as it would if it proceeded as a separate individual action." *In re Mentor ObTape Transobturator Sling Prods. Liab. Litigation*, 2016 U.S. Dist. LEXIS 121608, at *5 (M.D. Ga. Sept. 7, 2016).

For these reasons, the Court should disregard Plaintiffs' First and Second Supplemental Applications as procedurally violative of the June 3, 2021 Notice to the Bar. Regardless, Plaintiffs' Application should be denied for all of the substantive reasons stated by Defendants.

Respectfully submitted,

LOWENSTEIN SANDLER LLP

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EXHIBIT 1

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July 19, 2021

VIA ELECTRONIC MAIL AND E-FILING

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Superior Court of New Jersey
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Morristown, NJ 07963

Re: Gorrell v. LifeCell Corporation, et al.
Docket No. MRS-L-20-21

Dear Judge Franzblau:

On April 30, 2021, Plaintiff submitted an MCL application pursuant to pursuant to Rule 4:38A to consolidate in multicounty litigation this case as well as other cases. The application remains pending and Defendants have opposed Plaintiffs' application. Notwithstanding the foregoing, and without waiving any rights related to the application, undersigned counsel for each of the parties hereby submit this joint letter to the Court regarding the status of discovery, pursuant to this Court's Amended Case Management Order dated April 1, 2021. The status of discovery is as follows:

1. The parties have provided responses to Uniform Interrogatories. The parties have also exchanged written discovery demands and mutually agreed to a written response date of July 22, 2021.

2. The parties have mutually agreed to a medical records authorization form and plaintiff's counsel began the process of providing signed authorizations last week and will continue to do so as authorizations are executed on a rolling basis.

3. The parties are currently negotiating an agreed protective order and privilege log protocol with the expectation that these agreements will be finalized in the near future. The parties are also commencing negotiations regarding an electronic discovery protocol. The parties conducted a telephone call to discuss Defendants' ESI and corporate structure.

4. Subject to the finalization of the protective order and privilege log protocol, the parties have mutually agreed that Defendants shall begin making a rolling document production applicable to all cases beginning approximately July 16, 2021 with substantial completion of the document production by September 24, 2021. The parties have agreed that all documents pertaining to general discovery produced by Defendants may be used in other cases.

5. Subject to the grant or denial of Plaintiffs' MCL application, the parties intend to complete all discovery by the CMO deadline of June 18, 2022.

6. Subject to the grant or denial of Plaintiffs' MCL application, the parties otherwise agree to maintain the deadlines set forth in the CMOs in these cases.

We are available to provide further information to the Court, as required.

Respectfully submitted,

s/David W. Field
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EXHIBIT 2

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July 19, 2021

VIA ELECTRONIC MAIL AND E-FILING

Honorable William J. McGovern, III, J.S.C.
Sussex County Courthouse
43-47 High Street, 2nd Floor
Newton, NJ 07860

Re: Lowry v. LifeCell Corporation, et al.
Docket No. MRS-L-2660-20

Dear Judge McGovern:

On April 30, 2021, Plaintiffs submitted an MCL application pursuant to pursuant to Rule 4:38A to consolidate in multicounty litigation these cases as well as other cases. The application remains pending and Defendants opposed Plaintiffs' application. Notwithstanding the foregoing, and without waiving any rights related to the application, undersigned counsel for each of the parties in the above matters hereby submit this joint letter to the Court regarding the status of discovery, pursuant to this Court's Amended Case Management Orders dated April 1, 2021. The status of discovery is as follows:

1. The parties have provided responses to Uniform Interrogatories. The parties have also exchanged written discovery demands and mutually agreed to a written response date of July 22, 2021. However, in *Madoukai v. LifeCell Corporation*, et al., No. MRS-L-000060-21, the parties have agreed to an extension, up to and including September 7, 2021, for Plaintiff to provide written responses to Defendants' discovery requests and to provide medical records authorizations.

2. The parties have mutually agreed to a medical records authorization form for all cases and plaintiffs' counsel began the process of providing signed authorizations last week and will continue to do so as authorizations are executed on a rolling basis.

3. The parties are currently negotiating an agreed protective order and privilege log protocol with the expectation that these agreements will be finalized soon. The parties are also commencing negotiations regarding an electronic discovery protocol. The parties conducted a telephone call to duss Defendants' ESI and corporate structure.

4. Subject to the finalization of the protective order and privilege log protocol, the parties have mutually agreed that Defendants shall begin making a rolling document production applicable to all cases beginning approximately July 16, 2021 with substantial completion of the document production by September 24, 2021. The parties have agreed that all documents pertaining to general discovery produced by Defendants may be used in all cases.

5. Subject to the grant or denial of Plaintiffs' MCL application, the parties intend to complete all discovery by the CMO deadline of June 18, 2022.

6. Subject to the grant or denial of Plaintiffs' MCL application, the parties otherwise agree to maintain the deadlines set forth in the CMOs in these cases.

We are available to provide further information to the Court, as required.

Respectfully submitted,

s/David W. Field
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