

BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE: E. I. DU PONT DE NEMOURS :
AND COMPANY C-8 PERSONAL :
INJURY LITIGATION : MDL No.13-3
:

**DEFENDANT E. I. DU PONT DE NEMOURS AND COMPANY'S
MOTION FOR COORDINATION AND CONSOLIDATION
AND TRANSFER PURSUANT TO 28 U.S.C. § 1407**

Defendant E. I. du Pont de Nemours and Company (“DuPont”) respectfully moves the Judicial Panel on Multidistrict Litigation (“Panel”) pursuant to 28 U.S.C. § 1407 to transfer the actions listed in the attached Schedule of Actions and subsequent tag-along actions to either the Southern District of Ohio or the Southern District of West Virginia for pre-trial coordination or consolidation. Transfer is appropriate for the following reasons:

1. There are currently 26 personal injury or wrongful death actions pending against DuPont in the Southern District of Ohio (19 cases) and Southern District of West Virginia (7 cases) brought by individuals who allege that they consumed drinking water for at least one year prior to December 2004 from four water districts in Ohio and two in West Virginia that were allegedly contaminated with a chemical, C-8 (known also as PFOA or APFO), allegedly released by DuPont’s Washington Works Plant in Parkersburg, West Virginia.¹

¹ The 19 cases in the Southern District of Ohio are: *Yakubik v. E.I. du Pont de Nemours and Company*, No. 12-815 (Judge Sargus); *Borman v. E.I. du Pont de Nemours and Company*, No. 12-1180 (Judge Marbley); *Bragg v. E.I. du Pont de Nemours and Company*, No. 12-1181 (Judge Marbley); *Cline v. E.I. du Pont de Nemours and Company*, No. 12-1182 (Judge Smith); *Crites v. E.I. du Pont de Nemours and Company*, No. 12-1183 (Judge Watson); *Davis v. E.I. du Pont de Nemours and Company*, No. 12-1184 (Judge Graham); *Forshey v. E.I. du Pont de Nemours and Company*, No. 12-1185 (Judge Watson); *Gibson v. E.I. du Pont de Nemours and Company*, No. 12-1186 (Judge

(continued)

2. The foregoing lawsuits arise in the wake of a settlement of a class action in state court in West Virginia captioned *Jack W. Leach, et al. v. E.I. DuPont De Nemours and Company*, Civil Action No. 01-C-608 (Circuit Court of Wood County, W. Va.). The *Leach* case involved claims based on the alleged contamination of human drinking water supplies in Ohio and West Virginia with C-8 allegedly released by DuPont's Washington Works Plant. A class comprised of approximately 80,000 persons was certified by the court. It appears that most of the class members reside in Ohio.

3. Under the *Leach* class action settlement, an independent "Science Panel" was established to examine whether a "Probable Link" (as defined in the settlement agreement) exists between C-8 exposure and any human diseases. The settlement agreement provided, *inter alia*, that after the conclusion of the work of the Science Panel, a class member suffering from a

(continued)

Graham); *Lightfritz v. E.I. du Pont de Nemours and Company*, No. 12-1187 (Judge Economus); *Lightfritz v. E.I. du Pont de Nemours and Company*, No. 12-1188 (Judge Sargus); *Lowe v. E.I. du Pont de Nemours and Company*, No. 12-1189 (Judge Frost); *McPeck-Stalnaker v. E.I. du Pont de Nemours and Company*, No. 12-1190 (Judge Frost); *Molden v. E.I. du Pont de Nemours and Company*, No. 12-1191 (Judge Sargus); *Offenberger v. E.I. du Pont de Nemours and Company*, No. 12-1192 (Judge Frost); *Pugh v. E.I. du Pont de Nemours and Company*, No. 12-1193 (Judge Marbley); *Sheridan v. E.I. du Pont de Nemours and Company*, No. 12-1194 (Judge Marbley); *Short v. E.I. du Pont de Nemours and Company*, No. 12-1195 (Judge Watson); *Wright v. E.I. du Pont de Nemours and Company*, No. 12-1196 (Judge Graham); and *Wriston v. E.I. du Pont de Nemours and Company*, No. 13-0002 (Judge Smith).

The 7 cases in the Southern District of West Virginia are: *Morrison, et al v. E.I. du Pont de Nemours and Company*, No. 12-7053 (Chief Judge Goodwin); *Blackwell v. E.I. du Pont de Nemours and Company*, No. 12-7054 (Chief Judge Goodwin); *Tennant v. E.I. du Pont de Nemours and Company*, No. 12-7055 (Chief Judge Goodwin); *Mitchell v. E.I. du Pont de Nemours and Company*, No. 12-9572 (Chief Judge Goodwin); *Northup v. E.I. du Pont de Nemours and Company*, No. 12-9574 (Chief Judge Goodwin); *Selby v. E.I. du Pont de Nemours and Company*, No. 12-9576 (Chief Judge Goodwin); and *Harper v. E.I. du Pont de Nemours and Company*, No. 12-9577 (Chief Judge Goodwin).

Probable Link disease could initiate his or her own individual personal injury or wrongful death lawsuit.

4. The Science Panel has recently completed its work, rendering the last of a series of findings. While the Science Panel found no probable link between C-8 and most diseases, it found that a probable link exists between C-8 exposure and pregnancy-induced hypertension (including preeclampsia), kidney cancer, testicular cancer, thyroid disease, ulcerative colitis, and diagnosed high cholesterol (hypercholesterolemia) The Science Panel found no other probable links.

5. Each of the 26 lawsuits filed against DuPont referenced above alleges that the plaintiff suffers from one or more of the foregoing diseases to which a probable link finding was rendered by the Science Panel. The complaints each contain the same core factual allegations regarding DuPont's conduct. Also, the complaints each assert similar legal theories of liability against DuPont. However, as discussed in the accompanying memorandum of law, there are also individual factual issues and defenses unique to each plaintiff.

6. Since the *Leach* class was comprised of approximately 80,000 persons, many additional lawsuits may be filed by former members of the *Leach* class alleging that they too suffer from one of the diseases to which there was a probable link finding by the Science Panel.

7. As explained in more detail in the accompanying memorandum of law, the lawsuits against DuPont contain the same core factual allegations regarding DuPont's conduct and the same legal theories of liability. The convenience of the courts, witnesses, parties and counsel will all be served by transfer of these cases to a single District pursuant to 28 U.S.C. § 1407 for coordinated and consolidated pre-trial proceedings.

8. Absent transfer, the parties and courts will be subject to potentially inconsistent pretrial rulings on discovery and substantive matters, duplicative discovery, including expert discovery, and the burden and inconvenience of litigating the same issues and producing many of the same witnesses and documents in numerous individual cases in different judicial districts.

9. DuPont submits that the cases should be transferred to a single District for coordinated and consolidated pretrial proceedings. As explained in DuPont's memorandum of law (pp. 7-9), most of the criteria utilized by this Panel in making its transfer decisions militate in favor of transfer to the Southern District of Ohio. However, DuPont recognizes that certain factors would favor transfer to the Southern District of West Virginia.

WHEREFORE, DuPont respectfully requests that the Panel grant its motion and transfer these cases to either the Southern District of Ohio or the Southern District of West Virginia for coordinated and consolidated pre-trial proceedings.

Respectfully submitted,

/s/ Damond R. Mace

Damond R. Mace
Ohio Bar Number 0017102
damond.mace@squiresanders.com
SQUIRE SANDERS
4900 Key Tower
127 Public Square
Cleveland, Ohio 44114
(216) 479-8764

Attorney for Defendant
E. I. du Pont de Nemours and Company

OF COUNSEL:

Burt M. Rublin
rublin@ballardspahr.com
BALLARD SPAHR LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
(215) 864-8116

BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE: E. I. DU PONT DE NEMOURS :
AND COMPANY C-8 PERSONAL :
INJURY LITIGATION : MDL No.13-3
:

**DEFENDANT E. I. DU PONT DE NEMOURS AND COMPANY'S
MEMORANDUM IN SUPPORT OF MOTION FOR COORDINATION AND
CONSOLIDATION AND TRANSFER PURSUANT TO 28 U.S.C. § 1407**

I. INTRODUCTION

Defendant E. I. du Pont de Nemours and Company ("DuPont") previously entered into a settlement of a class action brought against it in state court in West Virginia relating to its operation of its Washington Works Plant in Parkersburg, West Virginia. Pursuant to the terms of that settlement, class members who allege that they suffer from certain specified diseases are now permitted to file their own personal injury and wrongful death lawsuits against DuPont. Twenty-six such lawsuits have already been filed in the Southern District of Ohio (19 cases) and Southern District of West Virginia (7 cases). Because the class action that spawned these lawsuits was comprised of approximately 80,000 class members, many more cases may be filed. The complaints each involve the same core factual allegations regarding DuPont's conduct, and also raise the same theories of legal liability.

Transferring the pending and subsequent tag-along cases to one court pursuant to 28 U.S.C. § 1407 will eliminate duplicative discovery, including expert discovery, avoid repetitive and duplicative motion practice and inconsistent rulings on a number of pre-trial issues involving discovery and substantive matters, and conserve the resources of the courts and the parties. The Panel has ordered consolidation in a number of factually analogous cases.

As discussed below (pp. 7-9, *infra*), while most of the factors traditionally applied by the Panel in making its transfer decisions militate in favor of transfer to the Southern District of Ohio, DuPont recognizes that certain factors favor transfer to the Southern District of West Virginia. However, regardless of which court is chosen by the Panel as the transferee forum, transfer is warranted under Section 1407.

II. BACKGROUND

There are currently 26 personal injury or wrongful death actions pending against DuPont in the Southern District of Ohio (19 cases) and Southern District of West Virginia (7 cases) brought by individuals who each allege that they consumed drinking water for at least one year prior to December 2004 from one of four water districts in Ohio or two water districts in West Virginia that were allegedly contaminated with a chemical, C-8 (known also as PFOA or APFO), allegedly released by DuPont's Washington Works Plant in Parkersburg, West Virginia.¹

¹ The 19 cases in the Southern District of Ohio are: *Yakubik v. E.I. du Pont de Nemours and Company*, No. 12-815 (Judge Sargus); *Borman v. E.I. du Pont de Nemours and Company*, No. 12-1180 (Judge Marbley); *Bragg v. E.I. du Pont de Nemours and Company*, No. 12-1181 (Judge Marbley); *Cline v. E.I. du Pont de Nemours and Company*, No. 12-1182 (Judge Smith); *Crites v. E.I. du Pont de Nemours and Company*, No. 12-1183 (Judge Watson); *Davis v. E.I. du Pont de Nemours and Company*, No. 12-1184 (Judge Graham); *Forshey v. E.I. du Pont de Nemours and Company*, No. 12-1185 (Judge Watson); *Gibson v. E.I. du Pont de Nemours and Company*, No. 12-1186 (Judge Graham); *Lightfritz v. E.I. du Pont de Nemours and Company*, No. 12-1187 (Judge Economus); *Lightfritz v. E.I. du Pont de Nemours and Company*, No. 12-1188 (Judge Sargus); *Lowe v. E.I. du Pont de Nemours and Company*, No. 12-1189 (Judge Frost); *McPeck-Stalnaker v. E.I. du Pont de Nemours and Company*, No. 12-1190 (Judge Frost); *Molden v. E.I. du Pont de Nemours and Company*, No. 12-1191 (Judge Sargus); *Offenberger v. E.I. du Pont de Nemours and Company*, No. 12-1192 (Judge Frost); *Pugh v. E.I. du Pont de Nemours and Company*, No. 12-1193 (Judge Marbley); *Sheridan v. E.I. du Pont de Nemours and Company*, No. 12-1194 (Judge Marbley); *Short v. E.I. du Pont de Nemours and Company*, No. 12-1195 (Judge Watson); *Wright v. E.I. du Pont de Nemours and Company*, No. 12-1196 (Judge Graham); and *Wriston v. E.I. du Pont de Nemours and Company*, No. 13-0002 (Judge Weber).

The 7 cases in the Southern District of West Virginia are: *Morrison, et al v. E.I. du Pont de Nemours and Company*, No. 12-7053 (Chief Judge Goodwin); *Blackwell v. E.I. du Pont de Nemours and Company*, No. 12-7054 (Chief Judge Goodwin); *Tennant v. E.I. du Pont de*

(continued)

The foregoing lawsuits arise in the wake of a settlement of a class action in state court in West Virginia captioned *Jack W. Leach, et al. v. E.I. DuPont de Nemours and Company*, Civil Action No. 01-C-608 (Circuit Court of Wood County, W. Va.). The *Leach* case involved claims arising from the alleged contamination of human drinking water supplies in Ohio and West Virginia with C-8 allegedly released by DuPont's Washington Works Plant. A class comprised of approximately 80,000 persons was certified by the court. It appears that the majority of class members reside in Ohio.

Under the *Leach* class action settlement, an independent "Science Panel" was established to examine whether a "Probable Link" (as defined in the settlement agreement) exists between C-8 exposure and any human diseases. The settlement provided, *inter alia*, that after the conclusion of the work of the Science Panel, a class member suffering from a Probable Link disease could initiate his or her own individual personal injury or wrongful death lawsuit.

The Science Panel has recently completed its work, rendering the last of a series of findings. While the Science Panel found no probable link between C-8 and most diseases, it found that a probable link exists between C-8 exposure and pregnancy-induced hypertension (including preeclampsia), kidney cancer, testicular cancer, thyroid disease, ulcerative colitis, and diagnosed high cholesterol (hypercholesterolemia). The Science Panel found no other probable links.

(continued)

Nemours and Company, No. 12-7055 (Chief Judge Goodwin); *Mitchell v. E.I. du Pont de Nemours and Company*, No. 12-9572 (Chief Judge Goodwin); *Northup v. E.I. du Pont de Nemours and Company*, No. 12-9574 (Chief Judge Goodwin); *Selby v. E.I. du Pont de Nemours and Company*, No. 12-9576 (Chief Judge Goodwin); and *Harper v. E.I. du Pont de Nemours and Company*, No. 12-9577 (Chief Judge Goodwin).

Each of the 26 lawsuits filed against DuPont referenced above alleges that plaintiff suffers from one or more of the foregoing Probable Link diseases. The complaints each contain the same core factual allegations regarding DuPont's conduct. Also, the complaints each assert similar legal theories of liability against DuPont.

Since the *Leach* class was comprised of approximately 80,000 persons, many additional lawsuits may be filed by others alleging that they too suffer from one of the Probable Link diseases. While the majority of the lawsuits will undoubtedly be filed in Ohio or West Virginia, in light of the fact that the consumption of the allegedly contaminated drinking water occurred at least 8 years ago, it is possible that, because of subsequent relocations, some plaintiffs may file suit in other jurisdictions.

III. ARGUMENT

A. Legal Standard

28 U.S.C. § 1407 governs the transfer and coordination of multidistrict litigation. The statute provides in relevant part:

When civil actions involving one or more common questions of fact are pending in different districts, such actions may be transferred to any district for coordinated or consolidated pretrial proceedings. Such transfers shall be made by the judicial panel on multidistrict litigation authorized by this section upon its determination that transfers for such proceedings will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.

28 U.S.C. § 1407(a). The cases at issue easily satisfy this standard.

B. Transfer Is Appropriate Under the Circumstances

1. The Complaints Allege Certain Common Questions of Fact and Law

The 26 complaints filed to date allege certain common questions of fact regarding DuPont's conduct. Specifically, plaintiffs in all actions allege that DuPont's operation of its Washington Works Plant caused the release of C-8 into their drinking water supplies, that

DuPont was aware of such releases, and it did not apprise the public that C-8 had been detected in the drinking water supplies. The lawsuits each allege that the plaintiffs suffer from one or more of the Probable Link diseases. Also, similar legal theories of liability are being asserted in each of the lawsuits.

Of course, there will also be a number of individual factual and legal issues unique to each plaintiff, such as: specific causation; genetic history and lifestyle of each plaintiff; the nature and severity of the alleged disease; the duration and amount of exposure to C-8; dates of consumption of the allegedly contaminated drinking water and DuPont's knowledge regarding C-8 releases into the water at the corresponding times; which water supply was utilized by the plaintiff; statute of limitations; and other defenses.

This Panel has recognized that water contamination and environmental mass tort litigation analogous to that presented here is appropriate for transfer and consolidation under Section 1407. *See, e.g., In re: Camp Lejeune North Carolina Water Contamination Litigation*, 763 F.Supp.2d 1381 (J. P.M.L. 2011) (“It is undisputed that these actions share factual questions arising out of alleged death or injuries due to contaminated drinking water on the Marine Corps Base at Camp Lejeune, North Carolina”); *In re: Methyl Tertiary Butyl Ether Products Liability Litigation*, 2000 U.S. Dist. LEXIS 14901 at *2 (J.P.M.L. Oct. 10, 2000) (“the Panel finds that the actions in this litigation involve common questions of fact concerning i) whether defendants knew about and misrepresented the nature of MTBE and conspired to market MTBE without disclosing its risks to downstream users, the federal government or the public, and ii) whether plaintiffs sustained drinking water contamination as a result of MTBE contamination”); *see also, In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico on April 20, 2010*, 731 F.Supp.2d 1352 (J.P.M.L. 2010); *In re Union Carbide Corporation Gas Plant Disaster at*

Bhopal India in December 1984, 601 F.Supp. 1035 (J.P.M.L. 1985); *In re Liquid Carbonic Truck Drivers Chemical Poisoning Litigation*, 423 F.Supp. 937 (J.P.M.L. 1976); *In re Radiation Incident at Washington, D.C. on April 5, 1974*, 400 F.Supp. 1404 (J.P.M.L. 1975).

2. Transfer Will Promote the Convenience of the Courts, Witnesses And The Parties

Transferring the cases to one District for coordinated and consolidated pretrial proceedings will promote the convenience and conserve the resources of the courts, witnesses and the parties. Many witnesses in these cases will be current or former DuPont employees. Absent a transfer, these employees will be subjected to multiple depositions in multiple jurisdictions. Also, DuPont would be subjected to multiple document requests and other written discovery. Having to undergo such discovery multiple times would be unduly burdensome to the witnesses, the parties, and their counsel. Thus, a transfer will minimize the heavy burden that these cases proceeding separately will otherwise place on the witnesses, the parties, the attorneys, and the courts.

Conversely, a transfer to either the Southern District of Ohio or the Southern District of West Virginia will not impose undue burden or inconvenience on the plaintiffs in light of the geographic proximity of these two Districts to the residences of the plaintiffs.

3. Transfer Will Promote the Just and Efficient Conduct of the Actions

In factually analogous cases, the Panel has ordered centralization because it “will eliminate duplicative discovery, prevent inconsistent pretrial rulings; and conserve the resources of the parties, their counsel, and the judiciary.” *In re Camp Lejeune, North Carolina Water Contamination Litigation*, 763 F.Supp.2d at 1381-82. *Accord In re: Methyl Tertiary Butyl Ether Products Liability*, 2000 U.S. Dist. LEXIS 14901 at *3 (“Section 1407 proceedings are desirable

in order to avoid duplication of discovery, prevent inconsistent or repetitive pretrial rulings and conserve the resources of the parties, their counsel and the judiciary.”).

Here, because of the common factual and legal allegations made in plaintiffs' complaints, the plaintiffs' discovery in all of the actions will substantially overlap. Also, these cases will involve expert witnesses on both sides, and centralization will prevent unnecessary expense through multiple and repetitive expert reports, depositions, etc. Transferring the cases will ensure coordinated discovery and eliminate duplication of effort and expense for all parties. Moreover, the cases raise overlapping legal issues, both in terms of plaintiffs' claims and DuPont's defenses. Absent coordination, each court will be left to separately decide discovery and substantive issues, repeatedly duplicating efforts and risking inconsistent rulings. *See, e.g., In re Chrysler LLC 2.7 Liter V-6 Engine Oil Sludge Prods. Liab. Litig.*, 598 F. Supp. 2d 1372, 1373 (J.P.M.L. 2009) (granting transfer of five cases with “nearly identical” factual allegations because doing so would allow one judge to “streamline proceedings and make consistent rulings on discovery disputes, dispositive motions, and issues relating to experts.”).

Moreover, consolidation in a single District will likely promote early and efficient resolution of all the cases. The transferee court will be able to explore various alternatives to resolve the cases in an expeditious manner.

C. Most Transfer Criteria Favor Transfer to the Southern District of Ohio, But Certain Factors Favor the Southern District of West Virginia

Most of the factors applied by this Panel in making its transfer decisions weigh in favor of transfer to the Southern District of Ohio. However, DuPont acknowledges that certain factors militate in favor of transfer to the Southern District of West Virginia.

The first-filed C-8 personal injury case brought in the wake of the *Leach* settlement was filed in the Southern District of Ohio. *Yakubik v. DuPont*, No. 12-815 (S.D. Ohio) (filed Sept. 6,

2012). Initial disclosures have been exchanged in that case, and a Court scheduling conference has been completed. There are now 19 C-8 cases in the Southern District of Ohio, versus only 7 C-8 cases in the Southern District of West Virginia. In addition, the most recent statistics indicate that, as of December 31, 2011, the Southern District of Ohio had less than half the number of pending cases per judge than the Southern District of West Virginia (412 vs. 995); fewer pending cases (3,292 vs. 4,974); and faster filing to disposition times in civil cases (9.9 months vs. 16.0 months).²

Also, consistent with the fact that four of the water districts involved in the *Leach* case are in Ohio, while only two are in West Virginia, it appears that the majority of *Leach* class members reside in Ohio. In addition, one of the water districts involved in the *Leach* case, the Little Hocking Water Association, filed suit against DuPont in the Southern District of Ohio in 2009 relating to the alleged release of C-8 into drinking water supplies, and that case is still pending. *The Little Hocking Water Association v. DuPont*, No. 09-1081 (S.D. Ohio).

On the other hand, the complaints all make allegations concerning DuPont's operation of its Washington Works Plant, which is across the Ohio River from Ohio, in the Southern District of West Virginia; the *Leach* class action that spawned these individual personal injury cases was in Wood County, West Virginia, located in the Southern District of West Virginia; and Chief Judge Goodwin has presided over two prior actions filed against DuPont relating to its alleged release of C-8 into the drinking water consumed by other plaintiffs. *Rhodes v. DuPont*, No. 06-cv-530 (S.D.W.Va.); *Tennant v. DuPont*, No. 99-cv-488 (S.D.W.Va.).

² <http://www.uscourts.gov/Statistics/FederalCourtManagementStatistics/DistrictCourtsDec2011.aspx>

Finally, there are two small pending MDLs in the Southern District of Ohio, and collectively they only have 8 pending cases.³ By contrast, Chief Judge Goodwin (to whom the 7 C-8 personal injury cases in the Southern District of West Virginia are assigned) is now handling five MDLs, which collectively comprise 9,640 pending cases.⁴

IV. CONCLUSION

The 26 complaints already filed against DuPont contain the same core factual allegations regarding DuPont's conduct and similar legal claims. Also, numerous additional individual suits may be filed. Just as in the *Camp Lejeune Water Contamination Litigation* and the other cases cited above, centralization "will eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel, and the judiciary." 763 F. Supp. 2d at 1381-82. DuPont respectfully submits that transfer of the cases to a single District for

³ *In re Bill of Lading Transmission and Proceeding System Patent Litigation*, MDL No. 2050 (Judge Beckwith); *In re Porsche Cars North America, Inc. Plastic Coolant Tubes Products Liability Litigation*, MDL No. 2233 (Judge Frost). There are no pending cases in the *Bill of Lading* MDL, and only 8 pending cases in the *Porsche* MDL. See: http://www.jpml.uscourts.gov/sites/jpml/files/Pending_MDL_Dockets-By-District-November-2012.pdf.

⁴

- MDL – *In re: C.R. Bard, Inc., Pelvic Repair System Products Liability Litigation* (1,681 pending cases); <http://www.wvsd.uscourts.gov/MDL/avaulta/cases/recordList.cfm>
- MDL – *In re: American Medical Systems, Inc., Pelvic Repair System Products Liability Litigation* (3,091 pending cases); <http://www.wvsd.uscourts.gov/MDL/amsinc/cases/recordList.cfm>
- MDL – *In re: Boston Scientific Corp. Pelvic Repair System Products Liability Litigation* (1,778 pending cases); <http://www.wvsd.uscourts.gov/MDL/boston/cases/recordList.cfm>
- MDL – *In re: Ethicon, Inc., Pelvic Repair System Products Liability Litigation* (2,996 pending cases); <http://www.wvsd.uscourts.gov/MDL/ethicon/cases/recordList.cfm>
- MDL – *In re: Coloplast Corp. Pelvic Support Systems Products Liability Litigation* (94 pending cases); <http://www.wvsd.uscourts.gov/MDL/2387/cases/recordList.cfm>

consolidated and coordinated pretrial proceedings under Section 1407 is warranted.

Respectfully submitted,

/s/ Damond R. Mace
Damond R. Mace
Ohio Bar Number 0017102
damond.mace@squiresanders.com
SQUIRE SANDERS
4900 Key Tower
127 Public Square
Cleveland, Ohio 44114
(216) 479-8764
Attorney for Defendant
E. I. du Pont de Nemours and Company

OF COUNSEL:

Burt M. Rublin
rublin@ballardspahr.com
BALLARD SPAHR LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
(215) 864-8116