

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN RE: MOTION TO REFER TO THE MASS LITIGATION PANEL CERTAIN DIGITEK® CASES

WHEREAS, pursuant to Rule 26.01 of the West Virginia Trial Court Rules, the Chief Justice has received plaintiff's motion filed in the Circuit Court of Kanawha County, West Virginia, to consolidate and refer to the Mass Litigation Panel Bobbi J. Myers, as Administratrix of the Estate of Elizabeth J. Starr, deceased v. Mylan Pharmaceuticals, Inc., et al., Civil Action No. 08-C-999 "Digitek® cases", and all other similar cases, as defined in said motion; and

WHEREAS, the Chief Justice has also received the following pleadings filed in the Circuit Court of Kanawha County:

- "Brief in Support of Plaintiff's Motion for Consolidation and Referral to a Mass Litigation Panel Judge;"
- "Movants' Reply Memorandum to Plaintiff's Motion for Consolidation and Referral to a Mass Litigation Panel Requesting Same Consolidation and Referral to Mass Litigation Panel and Specifically to First Judicial District Judge James P. Mazzone;"
- "Response of Mylan Pharmaceuticals, Inc., Actavis Totowa, LLC, Mylan Bertek Pharmaceuticals, Inc., UDL Laboratories, Inc. and Rite Aid Corporation to Plaintiff's Motion for Consolidation and Referral to a Mass Litigation Panel Judge;"
- "Plaintiff Bobbi J. Myers' Replies to: 1. Defendants' Response to Plaintiff Bobbi J. Myers' Motion for Consolidation and Assignment to a Mass Litigation Panel Judge, and 2. Statement Filed on Behalf of Four Plaintiffs Whose Cases Are Pending in Other West Virginia Circuit Courts;" and
- "Supplemental Response of Defendants to Plaintiff Bobbi J. Myers' Motion for Consolidation and Assignment to a Mass Litigation Panel Judge;" and

WHEREAS, the following Digitek® cases were identified in the aforementioned pleadings:

1. Bobbi J. Myers v. Mylan Pharmaceuticals, Inc., et al., Circuit Court of Kanawha County; Civil Action No. 08-C-999 (Judge Charles E. King, Jr.);

2. Lola J. Smith v. Mylan Pharmaceuticals, Inc., et al., Circuit Court of Kanawha County; Civil Action No. 08-C-1069 (Judge Paul Zakaib, Jr.);
3. Melvin L. Pennington v. Mylan Pharmaceuticals, Inc., et al., Circuit Court of Putnam County; Civil Action No. 08-C-172 (Judge N. Edward Eagloski, II);
4. Marcella L. Adkins v. Mylan Pharmaceuticals, Inc., et al., Circuit Court of Wayne County; Civil Action No. 08-C-172 (Judge Darrell Pratt);
5. Thomas Beveridge v. Mylan Pharmaceuticals, Inc., et al., Circuit Court of Ohio County; Civil Action No. 08-C-273 (Judge Ronald E. Wilson);
6. Glenn Riggs v. Mylan Pharmaceuticals, Inc., et al., Circuit Court of Brooke County; Civil Action No. 08-C-125 (Judge Arthur M. Recht);
7. Ruth Riggs v. Mylan Pharmaceuticals, Inc., et al., Circuit Court of Brooke County; Civil Action No. 08-C-126 (Judge Martin J. Gaughan);
8. Anne Dulaney v. Mylan Pharmaceuticals, Inc., et al., Circuit Court of Ohio County; Civil Action No. 08-C-302 (Judge Martin J. Gaughan); and
9. Martha Florence Guy, as Power of Attorney for Dorothy Porter v. Mylan Pharmaceuticals, Inc., et al., Circuit Court of Ohio County; Civil Action No. 08-C-303 (Judge Martin J. Gaughan); and

WHEREAS, the Motion appears to be in substantial compliance with Rule 26.01 of the West Virginia Trial Court Rules; and

WHEREAS, the time for parties and affected judges to file a reply memorandum has expired, and the Chief Justice has reviewed the motion and responses thereto; and

WHEREAS, upon review thereof, the Chief Justice has determined that the motion to refer should be granted and that it is appropriate to transfer the above referenced Digitek® cases to the Mass Litigation Panel;

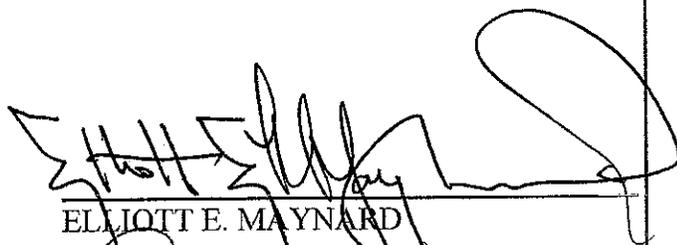
UPON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, the Motion to Refer is granted with respect to all pending Digitek® cases in the State of West Virginia, and all Digitek® cases subsequently filed in the State of West Virginia, and all such cases are hereby transferred to the Mass Litigation Panel; and

IT IS FURTHER ORDERED, that a copy of this ORDER be transmitted to all counsel for the parties from whom the Chief Justice has received pleadings addressing this motion, to the Mass Litigation Panel, Kimberley R. Fields (Mass Litigation Manager), Administrative Director of the Courts, to the Honorable Charles E. King, Jr., to the Honorable Paul Zakaib, Jr., to the Honorable N. Edward Eagloski, II, to the Honorable Darrell Pratt, to the Honorable Ronald E. Wilson, to the Honorable Arthur M. Recht, to the Honorable Martin J. Gaughan, and to the Clerks of the Circuit Courts of Kanawha, Putnam, Wayne, Ohio, and Brooke Counties to provide copies of the same to all parties of record or their counsel; and

IT IS FURTHER ORDERED, that the Clerks of the Circuit Courts of Kanawha, Putnam, Wayne, Ohio, and Brooke Counties where Digitek® cases are filed, need take no action to remove or otherwise transfer these matters until direction is received in writing from a member of the Mass Litigation Panel, and/or the Chief Justice of the Supreme Court of Appeals; and

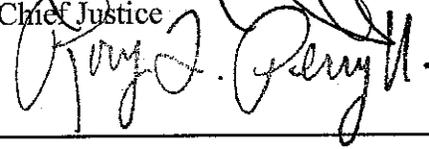
IT IS FURTHER ORDERED, that all proceedings be conducted as provided by law.

ENTERED: SEPTEMBER 18, 2008



ELLIOTT E. MAYNARD
Chief Justice

Attest: _____



Rory L. Perry, II, Clerk
Supreme Court of Appeals