

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
DIVISION II

Randy L. Mace, personal representative
of the estate of Kathy W. Mace, deceased

plaintiff

vs.

Mylan, Inc.
Mylan Pharmaceuticals, Inc., and

Mylan Technologies, Inc.

defendants

CASE NO.: 08-C-480
JUDGE RUSSELL M. CLAWGES, JR.

ORDER DENYING PLAINTIFF'S MOTION TO REINSTATE

The plaintiff's motion to reinstate is denied based on the following.

1. The reasons given in the court's ORDER REGARDING DEFENDANTS' MOTION TO AMEND AND/OR CLARIFY entered herein on June 3, 2009, which are incorporated by reference.

2. North Carolina has a two-year statute of limitations on wrongful-death actions, NC.G.S. § 1-53(4), with no discovery rule. *Udzinski v. Lovin*, 597 S.E.2d 703, 706 (N.C. 2004). The decisions in *Bradshaw v. Soulsby*, 210 W.Va. 682, 558 S.E.2d 681 (2001) and/or *McKinney v. Fairchild*, 199 W.Va. 718, 487 S.E.2d 913 (1997) do not require application of West Virginia's statute of limitations discovery rule to a wrongful death case governed by North Carolina substantive law under the facts of this case, and the court declines to find that West Virginia's discovery rule should be applied in this case.

Order

The plaintiff's motion to reinstate is ORDERED denied.

It further ORDERED that the Circuit Clerk provide certified copies of this order to all counsel
of record.

Enter March 19, 2010



Russell M. Clawges, Jr. Chief Judge
17th Judicial Circuit, Division II

FILED March 19, 2010
CIVIL ORDER BOOK 126 PAGE 632
JEAN FRIEND, CLERK