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clerk's # 560001/2005
sub # 9

STATE OF NEW YORK
LITIGATION COORDINATING PANEL

Panel Case No. 0002/2005

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FILED

DEC - 1 2005

NEW YORK
COUNTY CLERK'S OFFICE

-----X
ELAINE KELLY, individually and on behalf of the
Estate of MARVIN KELLY, deceased,

Plaintiff,

Index No. 102893/2005

- against -

PFIZER, INC.,

Defendant.
-----X

AND OTHER MATTERS LISTED ON THE ATTACHED APPENDIX

DECISION AND ORDER

The plaintiff in the action captioned above moved before the Litigation Coordinating Panel ("the Panel") for an order, pursuant to Section 202.69 of the Uniform Rules for the Trial Courts, coordinating the action and 11 other matters before a Justice of the Supreme Court. The law firms of Weitz & Luxenberg, P.C., The Lanier Law Firm, P.C., Fein & Jakob, Locks Law Firm, PLLC, Morelli Ratner, P.C., Seeger Weiss LLP, and Milberg Weiss Bershad & Schulman LLP, which represent plaintiffs in related actions, submitted papers joining in the request for coordination. It was also requested that the order of the Panel apply to all pending related actions that were not included in the original application and all related actions that may hereafter be filed. The related actions that have been specifically identified in the papers submitted, in addition to that captioned above, are

listed in the Appendix hereto. There are 66 named actions before the Panel at this time.

The *Kelly* action and those listed on the Appendix, which are pending in more than one judicial district, are brought against Pfizer, Inc., the manufacturer of the drug Bextra, and allege that the plaintiffs suffered personal injuries as a result of ingestion of this drug.

Counsel for Pfizer initially indicated opposition to the application and the coordination of these matters. However, by letter dated November 3, 2005, counsel informed the Panel that it was withdrawing its opposition in view of a Transfer Order issued by the Federal Judicial Panel on Multidistrict Litigation in *In re Bextra and Celebrex Products Liability Litigation* and other matters (filed Sept. 6, 2005).

The Panel has met and considered the issues and circumstances involved. The Panel has concluded that the application should be granted with respect to actions involving Bextra only, including all pending matters and those that may hereafter be filed. Coordination shall take place in the County of New York before a Justice of that County to be designated by the Administrative Judge thereof. Other issues, such as a request that discovery proceed jointly with that in similar cases in the Federal Multidistrict proceeding or possible motion practice regarding *forum non conveniens*, should be raised before the Coordinating Justice.

For these reasons, it is hereby

(1) ORDERED that the actions set forth above and in the Appendix shall be coordinated, pursuant to Section 202.69 of the Uniform Rules for the Trial Courts, in the Supreme Court of the State of New York, County of New York, before a Coordinating Justice of that County; and it is further

(2) ORDERED that any actions for personal injury alleged to have occurred as a result of the

ingestion of Bextra only and that were filed in the Supreme Court of the State of New York heretofore and that remain active but that are not listed in the caption above or on the attached Appendix and any such actions that are filed hereafter shall, in accordance with Subdivision F of the Procedures of the Panel, likewise be coordinated pursuant to Section 202.69 in New York County before the said Coordinating Justice unless the Panel rules otherwise as provided in said Subdivision F; and it is further

(3) ORDERED that, pursuant to Section 202.69 (c) (1), the Administrative Judge of the First Judicial District shall designate the Coordinating Justice; and it is further

(4) ORDERED that the Clerk of the Panel shall forthwith transmit a copy of this Decision and Order to counsel for all parties herein, the Justices to whom each of the above actions is currently assigned, and Honorable Jacqueline W. Silbermann, Administrative Judge of the First Judicial District; and it is further

(5) ORDERED that, with respect to any additional action that is to be coordinated as provided in Paragraph (2) hereof, upon service of a copy of the Decision and Order of the Panel with notice of entry, together with either the affidavit of compliance or the further decision of the Panel set forth in Subdivision F of the Procedures of the Panel, upon the Clerk of the Court in which any such additional action is or hereafter shall be pending (other than the Supreme Court, New York County) as provided in Subdivision F, the said Clerk shall forthwith transfer to the Clerk of Supreme Court, New York County, after payment of appropriate fees, if any, the file in any such additional action that is to be coordinated as provided in this Decision and Order and Subdivision F; and it is further

(6) ORDERED that, the Clerk of the Supreme Court, New York County, shall assign a New

York County index number without fee to any action transferred to that County from another as provided above and such number shall serve as a means of identification and orderly processing of any such case while it remains in New York County for the purpose of coordination; and it is further

(7) ORDERED that the stay of these related matters heretofore issued shall continue until 21 days after the date of this Decision and Order.

This constitutes the Decision and Order of the Panel. The Presiding Justice of the Panel signs this Decision and Order on her own behalf and with the authorization and on behalf of all of the other Members of the Panel.

Dated: New York, New York
November 30, 2005

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JUSTICES OF THE PANEL:

HON. HELEN E. FREEDMAN
Presiding Justice, First Department

HON. RAYMOND E. CORNELIUS
Associate Justice, Fourth Department

HON. E. MICHAEL KAVANAGH
Associate Justice, Third Department

HON. JOSEPH J. MALTESE
Associate Justice, Second Department

FOR THE PANEL:


HON. HELEN E. FREEDMAN
Presiding Justice, First Department

APPENDIX

OTHER RELATED ACTIONS IDENTIFIED IN THE APPLICATION AND PAPERS SUBMITTED IN SUPPORT

Manning v. Pfizer, Inc., St. Lawrence Cty., Index No. 119367/2005

New York County Matters

Byrne v. Pfizer, Inc., Index No. 105814/2005
Bennett v. Pfizer, Inc., Index No. 106429/2005
Baisley v. Pfizer, Inc., Index No. 106430/2005
Budreau v. Pfizer, Inc., Index No. 106428/2005
Coslett v. Pfizer, Inc., Index No. 106427/2005
Harless v. Pfizer, Inc., Index No. 106426/2005
Johnson v. Pfizer, Inc., Index No. 106425/2005
Møedl v. Pfizer, Inc., Index No. 106424/2005
Nagy v. Pfizer, Inc., Index No. 106423/2005
Parker v. Pfizer, Inc., Index No. 106422/2005
Augustine v. Pfizer, Inc., Index No. 109111/2005
Wren v. Pfizer, Inc., Index No. 109113/2005
Wilson v. Pfizer, Inc., Index No. 109112/2005
Pörter v. Pfizer, Inc., Index No. 109116/2005
Parson v. Pfizer, Inc., Index No. 109114/2005
Johnson v. Pfizer, Inc., Index No. 109115/2005
Carpenter v. Pfizer, Inc., Index No. 105907/2005
Jones v. Pfizer, Inc., Index No. 107309/2005
Mahoney v. Pfizer, Inc., Index No. 103351/2005
Maynard v. Pfizer, Inc., Index No. 106454/2005
Soodalter v. Pfizer, Inc., Index No. 105247/2005
Soto-Gonzalez v. Pfizer, Inc., Index No. 105249/2005
Acheson v. Pfizer, Inc., Index No. 105248/2005
Ingold v. Pfizer, Inc., Index No. 108254/2005
Presnell v. Pfizer, Inc., Index No. 106524/2005
Mailhot v. Pfizer, Inc., Index No. 108980/2005
Hahn v. Pfizer, Inc., Index No. 108977/2005
Thorpe v. Pfizer, Inc., Index No. 108976/2005
Martin v. Pfizer, Inc., Index No. 108975/2005
Reynolds v. Pfizer, Inc., Index No. 108968/2005
Hawkins v. Pfizer, Inc., Index No. 108967/2005
Osborne v. Pfizer, Inc., Index No. 108974/2005
Schwartz v. Pfizer, Inc., Index No. 108971/2005

Williams v. Pfizer, Inc., Index No. 108970/2005
Luna v. Pfizer, Inc., Index No. 108969/2005
Miller v. Pfizer, Inc., Index No. 108978/2005
Lewis v. Pfizer, Inc., Index No. 108972/2005
Schwartz v. Pfizer, Inc., Index No. 108979/2005
Long v. Pfizer, Inc., Index No. 109005/2005
Sauceda v. Pfizer, Inc., Index No. 106628/2005
Roiniotis v. Pfizer, Inc., Index No. 102407/2005
Zdanowicz v. Pfizer, Inc., Index No. 102408/2005
Glover v. Pfizer, Inc., Index No. 601546/2005
Bell v. Pfizer, Inc., Index No. 106111/2005
Stocker v. Pfizer, Inc., Index No. 103419/2005
Owen v. Pfizer, Inc., Index No. 103420/2005
Hurley v. Pfizer, Inc., Index No. 109132/2005
Judkins v. Pfizer, Inc., Index No. 109127/2005
Sasso-Way v. Pfizer, Inc., Index No. 109128/2005
Williams v. Pfizer, Inc., Index No. 109129/2005
Thompson v. Pfizer, Inc., Index No. 109130/2005
Naivpavel v. Pfizer, Inc., Index No. 109131/2005
Mills v. Pfizer, Inc., Index No. 109126/2005
Manning v. Pfizer, Inc., Index No. 107847/2005
Raymond v. Pfizer, Inc., Index No. 116109/2004
Nettles v. Pfizer, Inc., Index No. 106711/2005
Logan v. Pfizer, Inc., Index No. 106355/2005
Nichols v. Pfizer, Inc., Index No. 108988/2005
Ayre v. Pfizer, Inc., Index No. 109243/2005
Thomas v. Pfizer, Inc., Index No. 109242/2005
Lindsey v. Pfizer, Inc., Index No. 109244/2005
Vickers v. Pfizer, Inc., Index No. 109245/2005
Wooden v. Pfizer, Inc., Index No. 109246/2005
Weber v. Pfizer, Inc., Index No. 003476/2005