



MORELOCK v. ABBOTT LABORATORIES et al

2023 | Cited 0 times | D. New Jersey | May 1, 2023

1 NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

IN RE: PROTON-PUMP INHIBITOR PRODUCTS LIABILITY LITIGATION This Document
Relates to: All cases listed in Exhibit A

2:17-MD-2789 (CCC)(LDW)

(MDL 2789) OPINION AND ORDER

CECCHI, District Judge.

I. Introduction

This matter comes before the Court upon Case Management Order (“CMO”) No. 65, ECF No. 723, entered on December 2, 2021, which identified 1,535 cases in which AstraZeneca LP (“AZLP”), AstraZeneca Pharmaceuticals LP (“AZPLP”), and Merck & Co. Inc. d/b/a Merck, Sharp & Dohme Corporation (“Merck”) (collectively, the “AZ Defendants”) alleged that service of the summons and complaint had not been effected and in which no proof of service appeared on the docket of the case. CMO No. 65 ordered Plaintiffs in those cases within thirty days to (1) establish that service was effected on the AZ Defendants identified in Exhibit A to CMO No. 65, as required by Rule 4(m) of the Federal Rules of Civil Procedure 1

by filing proof of service, (2) voluntarily dismiss the AZ Defendants, or (3) show cause why the AZ Defendants should not be dismissed within thirty days of entry of the Order. CMO No. 65, at 2 CMO No. 65 ordered Plaintiffs to file their responses on the dockets of the individual cases, and permitted the AZ Defendants to oppose within thirty days of each plaintiff’s response.

2 Plaintiffs were specifically

1 All references to Rules herein are to the Federal Rules of Civil Procedure. 2 At the request of the parties, the deadline for Plaintiffs to file responses to CMO No. 65 was extended to March 31, 2022,



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and then to June 30, 2022. See CMO No. 67, at § I.D, ECF No. 747; CMO No. 70, at ¶ B, ECF No. 769. The deadline for the AZ Defendants to oppose each plaintiff's

2 advised that "[f]ailure to comply with the terms of this Order will result in the dismissal of the case as to the identified AZ Defendants." CMO No. 65, at 2.

II. Legal Standard

Rule 4 governs the requirements regarding serving a summons. In particular, Rule 4(m) requires that "[i]f a defendant is not served 90 days after the complaint is filed, the court – on motion or on its own after notice to plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period." Fed. R. Civ. P. 4(m). In the Third Circuit, establishing good cause requires a "demonstration of good faith on the part of a party seeking an enlargement and some reasonable basis for noncompliance with the time specified in the rules." MCI Telecomms. Corp., 71 F.3d at 1097. 3

In the absence of a showing of good cause for failure timely to effect service, the Court has discretion either to dismiss a case or permit an extension. *Id.* at 1098 (citing *Petrucelli v. Bohringer & Ratzinger*, 46 F.3d 1298, 1305 (3d Cir. 1995)). It is the plaintiff's burden to demonstrate good cause for such failure to effectuate timely service or to persuade the Court to exercise its discretion and not dismiss the AZ Defendants from their cases. *Spence v. Lahood*, No. 11-3972, 2012 U.S. Dist. LEXIS 80015, at *15 (D.N.J. June 8, 2012) (citing *McCurdy v. Am. Bd. of Plastic Surgery*, 157 F.3d 191, 196 (3d Cir. 1998)).

response was extended to May 15, 2022, then to August 16, 2022, and then to October 17, 2022. See CMO No. 67, at § I.D, ECF No. 747; CMO No. 70, at ¶ B, ECF No. 769; CMO No. 78, at ¶ A, ECF No. 841. 3 Plaintiffs note that the version of Rule 4 quoted in *MCI Telecomms* is no longer applicable after an amendment in 1993. The amendment removed "good cause" as an absolute prerequisite for an extension of service. However, as explained above, the good cause standard still exists in Rule 4(m). The amendment merely allows courts, in the absence of good cause, to exercise their discretion to allow an extension if the circumstances warrant. Notably, the Court's Opinion and Order here is based on the current version of Rule 4(m).

3 III. Discussion

As stated above, CMO No. 65 ordered the identified Plaintiffs within thirty days to either establish that service was properly effectuated pursuant to Rule 4(m), voluntarily dismiss the AZ Defendants, or show cause why the AZ Defendants should not be dismissed. CMO No. 65 did not provide Plaintiffs with an extension of time to serve the Complaint, instead, it directed Plaintiffs to prove that service had in fact been effectuated or to "show cause why the AZ Defendants should not be



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dismissed.”

The 1,181 Plaintiffs in the cases identified on Exhibit A herein have failed to satisfy the requirements of CMO No. 65. Plaintiffs do not claim to have timely served the AZ Defendants in compliance with Rule 4(m). See CMO No. 7, at § II.D (“Absent agreement of the parties or subsequent Order of the Court, service of process shall be effectuated as required under Rule 4 of the Federal Rules of Civil Procedure.”).

4 While there is disagreement between Plaintiffs and the AZ Defendants concerning the fact or date of service in some of the cases here, it is undisputed that in the cases in which the AZ Defendants were served, service was effected only after CMO No. 65 was entered. In fact, of these 1,181 cases (and utilizing the earlier purported date of service in the event that the parties did not agree on the date of service), service was made between one to two years after the ninety-day period in Rule 4(m) in 9 cases; between two to three years after the ninety-day period in 228 cases; and between three to just over four years after the ninety-day period in 944 cases. Further, no Plaintiff here has dismissed the AZ Defendants from their case. Finally, as further elaborated below, Plaintiffs have not shown cause why the AZ Defendants should not

4 Though not relevant in these cases, the Court notes that AZLP, AZPLP, and Merck agreed to accept service of a Complaint by email at PPIComplaints@icemiller.com. CMO No. 27, at § I.D, ECF No. 260

4 be dismissed. Accordingly, due to untimely service and lack of good cause shown, it is appropriate that the AZ Defendants be dismissed from the cases identified in Exhibit A.

a. Plaintiffs Do Not Demonstrate Good Cause Mandating an Extension of Time

to Serve Plaintiffs’ responses to CMO No. 65 do not demonstrate good cause excusing their lack of timely service pursuant to Rule 4(m). Good cause requires “a demonstration of good faith on the part of the party seeking an enlargement . . . and some reasonable basis for noncompliance with the time specified in the rules.” *MCI Telecomms. Corp.*, 71 F.3d at 1097. To determine whether good cause exists, the Court considers “(1) reasonableness of plaintiff’s efforts to serve (2) prejudice to the defendant by lack of timely service and (3) whether plaintiff moved for an enlargement of time to serve.” *Id.* The primary focus must always be on “the plaintiff’s reasons for not complying with the time limit in the first place.” *Id.* Yet here, Plaintiffs have not even attempted to show good cause for their failure to timely serve or addressed the reasons for untimeliness. See, e.g., Pl. Lawrence Lucerne’s Resp. to Orders to Show Cause Regarding Service of Process, at 22-24, No. 2:19-cv-04209, ECF No. 8 (“Lucerne Resp.”). Accordingly, as the Court further explains, Plaintiffs have failed to demonstrate good cause for failure to timely serve in compliance with Rule 4(m).

As an initial matter, the Court notes that Plaintiffs responded to CMO No. 65 by filing virtually



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identical responses that do not reference the AZ Defendants' specific conduct. These responses attached an exhibit with limited information about the Plaintiffs' individual cases, but did not include any documentation to support their assertions in the exhibit. The information in these exhibits filed by Plaintiffs includes such information as the date of alleged service (if any), whether a defendant had filed a notice of appearance, whether a defendant had filed a short form answer, whether a Plaintiff Fact Sheet had been uploaded to Marker Group, whether a Defense

5 Fact Sheet had been served, and whether a defendant had sent a deficiency letter related to the Plaintiff Fact Sheet. See, e.g., Lucerne Resp.; Pl. Michael Lopez's Resp. to Order to Show Cause Regarding Service of Process, Ex. A, No. 2:18-cv-04494, ECF No. 15 ("Lopez Resp."). In addition, Plaintiffs' briefing does not address any reasons for the failure to timely serve and instead focuses on arguments concerning the AZ Defendants' purported waiver of service and the Court's authority for discretionary extensions. See *Houser v. Williams*, No. 16-9072, 2020 U.S. Dist. LEXIS 43518, at *6 (D.N.J. Mar. 12, 2020) (finding dismissal warranted where plaintiff did not serve the complaint for months after an agreed-upon extension and then failed to detail any steps he took towards serving defendant within the extended time afforded by the court).

Turning to the factors for evaluating good cause, the first factor examines the reasonableness of the plaintiff's efforts to serve the complaint. As noted, Plaintiffs offer no explanation for the failure to timely serve, nor an adequate description of reasonable steps that Plaintiffs took to effect timely service as required by Rule 4(m). And none of the Plaintiffs at issue here were close to satisfying timely service under Rule 4(m). As previously stated, in all 1,181 cases, service was effected at least one year after the ninety-day period under Rule 4(m) had lapsed; indeed, in 944 cases, or approximately 80 percent, service was effected over three years after the ninety-day period under Rule 4(m) had lapsed. Given Plaintiffs' lack of sufficient efforts to serve the complaint, this factor weighs heavily in favor of the AZ Defendants.

Under the second factor, the Court considers prejudice to the AZ Defendants by lack of timely service. Here, Plaintiffs' failure to serve caused the AZ Defendants to expend time and resources through investigation, consultation with opposing counsel, and advocating for and responding to case management orders – all to determine whether Plaintiffs intended to pursue litigation against them. *W. Coasts Quartz Corp. v. M.E.C. Tech, Inc.*, 2017 WL 1944197, at *2

6 (D.N.J. May 9, 2017). Moreover, this Court has previously determined that the AZ Defendants had been prejudiced by the delayed service or non-service. See Order Regarding CMO No. 65, at 7, ECF No. 890. Given the prejudice to the AZ Defendants resulting from Plaintiffs' failure to timely serve, this factor also cuts against good cause. And even if Plaintiffs had demonstrated lack of prejudice to the AZ Defendants, "absence of prejudice alone can never constitute good cause to excuse late service." *MCI Telecomms Corp.*, 71 F.3d at 1097.

Finally, under the third factor, while Plaintiffs have now requested an extension of time to serve the



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AZ Defendants, they did so only after CMO No. 65 was entered, which was a year or more after the time to serve the AZ Defendants in compliance with Rule 4(m) had lapsed. See, e.g., Lucerne Resp.; Lopez Resp. Plaintiffs have not explained why they did not request an extension of time to serve the AZ Defendants until after CMO No. 65 was entered by this Court. Accordingly, this factor similarly weighs in favor of the AZ Defendants and against Plaintiffs' showing of good cause.

Considering the three factors used to evaluate whether good cause has been demonstrated, Plaintiffs here have not demonstrated good cause for their failure to serve the AZ Defendants in compliance with Rule 4(m).

b. Plaintiffs Have Not Persuaded the Court that a Discretionary Extension is

Warranted In the absence of a showing of good cause mandating an extension to effectuate service, the Court nonetheless has discretion to either dismiss the case or permit extension. Because Plaintiffs have not established good cause, see *supra*, they must rely on the Court's discretionary authority to excuse failures to comply with Rule 4(m). See *Edwards v. Hillman*, 849 F. App'x. 23, 25 (3d Cir. 2021) (citing *Petrucelli*, 46 F.3d at 1305). The Court's exercise of discretion in this area is guided by various factors, including: "actual notice of the legal action; prejudice to the

7 defendant; the statute of limitations on the underlying causes of action; the conduct of the defendant; and whether the plaintiff is represented by counsel, in addition to any other factor that may be relevant." *Chiang v. U.S. Small Bus. Admin.*, 331 Fed. App'x 113, 116 (3d Cir. 2009); see also *Spence*, 2012 U.S. Dist. LEXIS 80015, at *15. Here, considering these factors, Plaintiffs have not met their burden in persuading the Court that such discretion should be exercised under these circumstances.

With respect to the first factor—actual notice of the legal action—Plaintiffs argue that the AZ Defendants were on notice of their claims through their tolling agreement, which provided Plaintiffs time to obtain information about their claims before filing a complaint. 5

However, the fact that a plaintiff was on the tolling agreement and may potentially bring a claim against the AZ Defendants or another defendant does not mean that the AZ Defendants had actual legal notice that a particular plaintiff would be pursuing his or her claim against the AZ Defendants in a legal action.

In *re Asbestos Prod. Liab. Litig.* (No. VI), upon which Plaintiffs rely for their argument that a court may extend the time for proper service if the defendant had "actual notice of the pending action," is instructive. 2014 WL 1903904, at *1 (E.D. Pa., May 12, 2014); see *Lucerne Resp.* at 9- 10 (citing *Asbestos*). The issue there concerned the appropriateness of a specific method of service by mail under Ohio law—not untimely service that occurred anywhere from one to four years past



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5 In June 2018, the parties entered into a tolling agreement concerning the statute of limitations. In order to obtain the benefit of tolling under the tolling agreement, a claimant had to provide the following information to all defendants: name and date of birth of the PPI user, name(s) of any derivative claimant(s), city and state of residence, date of first PPI use, date of last PPI use, alleged injury, and name of claimant's counsel. The Plaintiffs' Steering Committee was to compile this information and submit it to the defendants on an Excel spreadsheet on a monthly basis. See Stip. Regarding Tolling of Stats. of Lims., ECF No. 232, at 1-2. The data required to be provided to all defendants in the tolling agreement did not identify specific defendants whose product(s) were allegedly used by individual plaintiffs.

8 the Rule 4(m) deadline. Notably, the court found that the defendants were on "actual legal notice" of the pending action because the plaintiffs provided proof of a green card signed by the defendant, evidencing receipt of the original process papers by defendants' counsel, which the court found acceptable under Ohio state law. *Asbestos*, 2014 WL 1903904, at *1. By contrast, Plaintiffs here have not offered any similar evidence of actual notice. Indeed, as the AZ Defendants argue, the tolling agreement "covered Plaintiffs who could not yet show proof of use as to a Defendant's product" and, moreover, did not identify a specific defendant or which PPI products were at issue as to a particular potential plaintiff. See, e.g., No. 19-cv-04209, ECF No. 10 at 10 n.3. Therefore, Plaintiffs' reliance on *Asbestos* is misplaced and they have not demonstrated that the AZ Defendants had actual notice of pending litigation. Turning to prejudice to the defendant—the second factor—the Court reiterates its analysis when discussing the same factor in the context of good cause. See *supra* III.a (noting the AZ Defendants expended time and resources through their repeated attempts to determine whether Plaintiffs intended to pursue litigation against them, including their own independent inquiries, as well as meetings with counsel and the special master). Further, this Court has previously found in this MDL (with respect to a different defendant) that "[w]asted time and resources and inconvenience standing alone may constitute sufficient prejudice to warrant dismissal." CMO No. 63 at 7 (citing *Miller v. Advocare, LLC*, No. 12-01069, 2013 U.S. Dist. LEXIS 71451, at *8-9 (D.N.J. May 21, 2013)). Accordingly, this factor weighs against Plaintiffs' request.

Regarding the statute of limitations, the third factor, Plaintiffs argue that the applicable statute of limitations in most, if not all, of the actions subject to CMO No. 65 has expired. See, e.g., *Lucerne Resp.* at 21. However, "the expiration of the statute of limitations does not require the court to extend the time for service, as the court has discretion to dismiss the case even if the

9 refiling of the action is barred." *MCI Telecomms. Corp.*, 71 F.3d at 1098. Given the length of time between filing and service in the cases of these Plaintiffs—in some cases over four years—Plaintiffs' argument that the potential lapse of the statute of limitations warrants extension is not compelling. Relatedly, Plaintiffs have not alleged that the AZ Defendants engaged in any conduct to impede or frustrate timely service. See *Spence*, 2012 U.S. Dist. LEXIS 80015, at *15 (fourth factor). These factors thus militate against a discretionary extension as well.



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The final factor guiding the Court's discretion examines whether the plaintiff is represented by counsel. See *Spence*, 2012 U.S. Dist. LEXIS 80015, at *15. Plaintiffs here are all represented by counsel. And, in this context, "[e]ven when delay [in service] results from inadvertence of counsel, it need not be excused." *Petrucelli*, 46 F.3d at 1307. This factor thus also weighs against a discretionary extension.

Weighing all of the above factors, the Court is not persuaded that exercising its discretion to grant an extension to effectuate service on the AZ Defendants is warranted. Moreover, in addition to the factors counseling against an extension, the Court's conclusion is further supported by Plaintiffs' failure to provide an explanation as to why they did not timely serve the AZ Defendants. 6

c. Plaintiffs Have Not Shown that the AZ Defendants Waived their Defense to

Untimely Service Plaintiffs generally assert that the AZ Defendants waived any defense related to untimely service by virtue of their conduct in this MDL litigation. Plaintiffs argue that dismissal of their

6 The AZ Defendants also argue that because Plaintiffs did not address their reasons for untimely service (and instead relied chiefly on arguments concerning waiver), Plaintiffs' reply to CMO 65 failed to comply with a court order, requiring dismissal of their cases on that independent basis. See, e.g., No. 19-cv-04209, ECF No. 10 at 6. The AZ Defendants cite certain *Poulis* factors to support this argument. *Id.* at 10. As explained above, the Court has considered Plaintiffs' lack of an explanation in its discussion of Rule 4(m) and discretionary extensions.

10 claims against the AZ Defendants is inappropriate in those cases where (1) the AZ Defendants filed a motion to dismiss without raising service; (2) the AZ Defendants either filed an answer without raising service or answered before service; or (3) the AZ Defendants manifested some intention to defend the case through the AZ Defendants' conduct. See, e.g., *Lucerne Resp.* at § IV.B; *Lopez Resp.* at § IV.B. For the below reasons, the Court finds that the AZ Defendants have not waived their defense to untimely service.

The Court first turns to Plaintiffs' argument that the AZ Defendants waived their defense to lack of service in those cases where the AZ Defendants filed a motion to dismiss for purported failure to comply with the tolling agreement without specifically raising the defense. However, the AZ Defendants did not raise service in their motions to dismiss because an alternate procedure, proposed and agreed upon by the parties, was set forth in a stipulated court order, with their defenses expressly preserved by CMO No. 7. See CMO No. 7, ECF No. 112, at 7 ("Defendants also reserve all rights to move to dismiss . . . under Federal Rule of Civil Procedure Rule[] 12. Defendants shall only be permitted to file said motions to dismiss subject to leave of this Court."). CMO No. 7 thus expressly restricted defendants from moving to dismiss individual plaintiffs under Rule 12 absent leave of this Court. Indeed, the federal rules bar a defendant from later moving to dismiss for



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insufficient service of process only when the party “ could have raised these objections in their [earlier] motion to dismiss the complaint.” *Denkins v. William Penn Sch. Dist.*, No. 20- 02228, 2020 WL 5880132, at *3 (E.D. Pa. Oct. 2, 2020); accord *Wright & Miller*, 5C Fed. Prac. & Proc. Civ. § 1391 (“If one or more of these defenses are omitted from the initial motion but were ‘then available’ to the movant, they are permanently lost.”). In filing their authorized dismissal motions pursuant to the tolling agreement and CMO No. 7, the AZ Defendants did not have leave to raise any other defense, including insufficient service as to a particular case. Having understood

11 and agreed that such motions were to be deferred to a later date and with leave of the Court, it is not correct that the AZ Defendants, or any other defendant, waived their defense of service by failing to argue it in their motions to dismiss related to purported violations of the tolling agreement.

Plaintiffs’ next argument—that the AZ Defendants waived service either by filing an answer without raising service or by answering before service—is similarly unavailing. Plaintiffs assert that, as a general matter, waiver of service may occur where a defendant files an answer as its first responsive pleading and the answer fails to plead the defense. See, e.g., *Lucerne Resp.* at 7, 13. Accordingly, Plaintiffs argue that there are three potential scenarios where service has been waived by answer. First, Plaintiffs claim that in any case where the AZ Defendants filed a short form answer, service was waived because the short form answer simply incorporated the AZ Defendants’ initial long form answer. This, Plaintiffs maintain, is because the long form answer did not assert the defense of lack of service. See, e.g., *id.* at 14. Second, since a defendant’s notice of appearance in a specific case may serve as a short form answer, see Case Management Order No. 27 (ECF No. 265), Plaintiffs contend that a notice of appearance after service is functionally the same as a short form answer—it incorporates the long form answer, which does not assert the defense of lack of service. Finally, Plaintiffs argue that a notice of appearance before service waives this defense under the terms of Case Management Order No. 27 for cases filed after September 24, 2018. See, e.g., *Lucerne Resp.* at 8; see also CMO No. 27, at § 1.A.

As an initial matter, Plaintiffs’ individual submissions here do not assert that the AZ Defendants filed a short form answer in any of their cases, and the dockets confirm no such short form answers exist. See, e.g., *Lucerne Resp.*, Ex. A; *Lopez Resp.*, Ex. A; see generally No. 2:19- cv-04209; No. 2:18-cv-04494. Plaintiffs’ first argument is thus inapplicable to the cases listed in

12 Exhibit A. Similarly, for the cases which are subject to CMO No. 27’s provision that a notice of appearance before service waives the defense (i.e., cases filed on or after September 24, 2018), the dockets clearly reflect that, to the extent the AZ Defendants filed a Notice of Appearance, it was not until after service was (untimely) effected on them and after the entry of CMO 65. This leaves the Plaintiffs whose individual submissions assert the AZ Defendants filed a notice of appearance after service, which, they argue, waived the AZ Defendants’ untimely service defense because those notices incorporated the long form answer without further raising such a defense. However, as discussed above, at that point, the AZ Defendants had specifically “reserve[d] all rights to move to



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dismiss ... under Federal Rules of Civil Procedure Rule[] 12” when they (and Plaintiffs) agreed to CMO No. 7. CMO No. 7 at § G. Accordingly, the Court concludes that by filing a notice of appearance in a case in which the AZ Defendants had plainly reserved their right to challenge service, that notice of appearance did not negate the prior reservation and thereby waive the defense. 7

Plaintiffs’ final argument on waiver is that the AZ Defendants waived their defense of service through their conduct in the PPI litigation either as a whole or in individual cases. In support of their argument as to the AZ Defendants’ conduct in the litigation as a whole, Plaintiffs rely on *In re Cathode Ray Tube (CRT) Antitrust Litigation*, No. 07-5944, 2014 U.S. Dist. LEXIS 78902 (N.D. Cal. June 9, 2014). In that case, certain defendants raised their Rule 12(b)(5) defense to service in a consolidated motion to dismiss, but subsequently abandoned that 12(b)(5) motion in a later filing and then continued to participate in litigation for four years. The court found that under these circumstances those defendants had waived their defense of lack of service. *Id.* at *84-

7 The Court also notes that even if, contrary to the record, the AZ Defendants had filed a short form answer in any of the cases at issue here, the AZ Defendants’ reservation of rights from CMO No. 7 would mean that service was not waived.

13 88. The case is inapposite, however, as the AZ Defendants never previously raised—and subsequently abandoned—the defense of service in any of the cases identified here, and indeed was unable to without leave of the Court under CMO No. 7, as agreed to by the parties. Similarly, Plaintiffs’ reliance on *In re Methyl Tertiary Butyl Ether (“MTBE”) Prods. Liab. Litig.*, 162 F. Supp. 3d 247 (S.D.N.Y. Jan. 21, 2016), is misplaced. There, the plaintiff’s timely but defective service on the defendant’s prior (and thus incorrect) address combined with the defendant’s actions in participating in the litigation (including attending MDL status conferences in which the particular case was discussed and waiting until after the statute of limitations had expired before moving to dismiss the complaint for lack of service) contributed to the plaintiff being “lulled into believing it had effectively served” the defendant. *Id.* at 250. The court thus found that the defendant’s conduct justified the court’s exercising its discretion to extend the time for service, but, importantly, the court did not find that the defendant had waived its defense. *Id.* at 48-50. Plaintiffs here have not asserted that they timely served the AZ Defendants at the wrong address or were otherwise lulled into thinking that they had in fact properly served the AZ Defendants before CMO No. 65 was entered. Therefore, neither *In re CRT* nor *In re MTBE* justifies Plaintiffs’ argument.

Additionally, Plaintiffs’ general response argues that the AZ Defendants waived their defense of service by participating in the litigation of individual cases, citing *In re: Ethicon, Inc.*, No. 2:13-cv-00758, 2016 U.S. Dist. LEXIS 148765 (S.D.W.V. Oct. 27, 2016). But there, the defendants acknowledged receipt of a plaintiff profile form, requested additional information from the plaintiffs regarding their claims, and threatened to pursue a remedy in court if the plaintiff did not comply with their request. *Id.* at *6. By contrast, none of the Plaintiffs in the 1,181 cases herein claim that they received a deficiency letter related to their Plaintiff Fact Sheet, or that the AZ



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14 Defendants threatened to pursue a judicial remedy if the plaintiff did not cure the deficiency. In short, unlike in the Ethicon case, none of these Plaintiffs has demonstrated that the AZ Defendants have meaningfully participated in the litigation in their particular case. Further, the Court rejects Plaintiffs' suggestion to impute the AZ Defendant s' conduct in defending themselves in cases not subject to CMO No. 65 to suggest that the AZ Defendants waived their defense of service of process in the specific cases identified in Exhibit A hereto.

Plaintiffs also assert that the AZ Defendants have waited too long to assert their defense of service. Plaintiffs rely on the Sixth Circuit's decision in *King v. Taylor*; however, in that case, unlike here, the defendant actively litigated the case by, among other things, filing a joint Rule 26(f) report, participating in depositions, seeking to extend discovery deadlines, and joining in a status report in that particular case, and only moved to dismiss for lack of service at the summary judgment stage. *King v. Taylor*, 694 F.3d 650, 659-61 (6th Cir. 2012). Here, however, none of the 1,181 cases identified in Exhibit A is a Bellwether case or a Wave case and thus the AZ Defendants have not participated in discovery in the individual cases like the defendant in *Taylor* did. Further, as noted previously, stipulated CMO No. 7 precluded the AZ Defendants from filing a motion to dismiss for lack of service without leave of the Court.

IV. Conclusion

CMO No. 65 required Plaintiffs to (1) show they timely served the AZ Defendants pursuant to Rule 4(m), (2) dismiss the AZ Defendants from their case, or (3) show cause why this Court should not dismiss the AZ Defendants from their cases. Plaintiffs whose cases are on Exhibit A have failed to meet their burden of demonstrating good cause for failure to comply with CMO No. 65 and effectuate timely service, and have failed to persuade the Court to exercise its discretion not to dismiss the AZ Defendants from their cases. Accordingly, this Court denies Plaintiffs'

15 requests for extensions and orders the AZ Defendants to be dismissed without prejudice from the cases identified in Exhibit A. 8

Accordingly, IT IS on this _____ day of April, 2023; ORDERED that the AZ Defendants shall be DISMISSED without prejudice from the cases identified in Exhibit A hereto.

SO ORDERED.

CLAIRE C. CECCHI, U.S.D.J.

8 To the extent Plaintiffs in the cases identified in Exhibit A hereto have raised in their briefing any arguments not expressly addressed herein, the Court has considered and rejected them.



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Exhibit A Plaintiff Name Case No. 1 Ronald Trent 2:18-cv-03769 2 Sunny Nielson 2:18-cv-03770 3 Valerie D. Bell 2:18-cv-03774 4 Antonio D. Davis 2:18-cv-03775 5 Misty Ashley 2:18-cv-03851 6 Carolyn Ellis 2:18-cv-03855 7 Fred Foscalina, As Proposed Administrator of the Estate of Betty Foscalina, Deceased

2:18-cv-03856 8 Ronald Gardea 2:18-cv-03858 9 Paul Gann and Candance Gann 2:18-cv-03878 10 Alva Stewart 2:18-cv-03879 11

Shawney Tackett, as Proposed Representative of the Estate of David L. Francis, Deceased

2:18-cv-03880 12 Nancy M. Crockett 2:18-cv-03883 13 Lynda D. McKibben 2:18-cv-03885 14 Leonore L. Sosa 2:18-cv-03886 15 Nathaniel McDaniel 2:18-cv-03888 16 Susan Cobb 2:18-cv-03889 17 Mary E. Berry 2:18-cv-03898 18 Kerrie Griffin 2:18-cv-04021 19 Charlene Coffey 2:18-cv-04024 20 Janet Gills 2:18-cv-04028 21 Debra Grigsby 2:18-cv-04031 22 Barbara Gibson 2:18-cv-04033 23 Steven Knox 2:18-cv-04036 24 Iva Good 2:18-cv-04038 25 Larry Rutheford and Diane E. Rutheford 2:18-cv-04039 26 Cynthia Gordon 2:18-cv-04042 27 Doris Cook 2:18-cv-04043 28

Alvin Cooper, as Proposed Representative of the Estate of Peggy Cooper, Deceased

2:18-cv-04045 29 Ricky L. Graham 2:18-cv-04047 30 Norman Kydd 2:18-cv-04048 31 Jeanette Gillespie 2:18-cv-04049 32 Joyce Gettys 2:18-cv-04052 33 Joyce Covington 2:18-cv-04053 34 Della I. Gregg 2:18-cv-04054 35 Theresa Landingham 2:18-cv-04057 36 Connie L. Croy 2:18-cv-04058 37 Christopher Cracolice and Martha Ann Cracolice 2:18-cv-04064 38 Terrisina Lawrence-Mason 2:18-cv-04065 39 Dianne Webber 2:18-cv-04069 40 Deborah Kirby and Thomas Kirby 2:18-cv-04073 41

Gaye Riggle, As Proposed Administrator of the Estate of Thomas Riggle, Deceased

2:18-cv-04076 42 Ethelyn Ruddell 2:18-cv-04077

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Mary Nordby, as Proposed Representative of the Estate of Joan Jackson, Deceased

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Marsha Graham, as Proposed Representative of the Estate of Gary Graham, Deceased

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Travis Charlton, As Proposed Representative of the Estate of Cynthia Halbert, Deceased

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Jerry Blosser, Individually and as Proposed Representative of the Estate of Wanda Blosser, Deceased

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Rita Johnson, as Proposed Representative of the Estate of Lessie Tharpe, Deceased

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Emily Knotts, as Proposed Representative of the Estate of Cheryl Stefenel, Deceased

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Juan Cantu, Individually and as the Representative of the Estate of Margarita Cantu, Deceased

2:19-cv-02104 555 Juanita Landers 2:19-cv-02127 556 Johnny Fritts 2:19-cv-02128 557 Karen Gaines
2:19-cv-02136 558

Brenda McCurdy, Individually and as the Representative of the Estate of Rickey McCurdy, Deceased

2:19-cv-02143 559 Gloria Hernandez 2:19-cv-02147 560

Cynthia McDonald, As the representative of the Estate of Helen McDonald, deceased

2:19-cv-02157 561 Bridgette Long 2:19-cv-02159 562

Nettie Overton, individually and as the Representative of the Estate of Charlie Overton, Deceased

2:19-cv-02174 563 Glenda Long 2:19-cv-02175 564 Melissa Olson 2:19-cv-02204 565 Sandra Pannell
2:19-cv-02246 566 Priscille Parent 2:19-cv-02261 567 Lucretia Peavy 2:19-cv-02275 568 Mabel Perry
2:19-cv-02318 569 Glenna Pool 2:19-cv-02335 570 Debra Primrose 2:19-cv-02356 571

Margaret Pryor, As the Representative of the Estate of Keith Pryor, deceased

2:19-cv-02367 572 Joyce Sheffield 2:19-cv-02377 573 Terry Sheffield 2:19-cv-02386 574

Esther Rangel, Individually and as the Representative of the Estate of Armando Rangel, Deceased

2:19-cv-02404 575 Henry Shuster 2:19-cv-02445 576 John Silva 2:19-cv-02454 577 Lionel Smith
2:19-cv-02464 578 Linda Stockwell 2:19-cv-02475 579 Diane Watkins 2:19-cv-02484 580 James
Williams 2:19-cv-02487 581 Charles Wiley 2:19-cv-02493 582 Darwin Valentine 2:19-cv-02547 583
Linda Wood 2:19-cv-02562 584

Susan Lynn Wright, Individually and as the Representatie of the Estate of Tabitha Wright, Deceased

2:19-cv-02577 585 Denise Brown 2:19-cv-02581 586 Donna Wooten 2:19-cv-02586 587 Andra
Henderson 2:19-cv-02743 588 Darryl Herod 2:19-cv-02748 589 Michael Prilla 2:19-cv-02955 590 John
Choyce 2:19-cv-02988 591

Cheryl Adams, as Proposed Representative of the Estate of Belle Collins, Deceased

2:19-cv-02996 592 Elia Carrillo 2:19-cv-03068



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Exhibit A 593 Jeffrey Carter, Sr. 2:19-cv-03069 594 Carla Comer 2:19-cv-03073 595 Leota Conrad 2:19-cv-03075 596 John Covell 2:19-cv-03078 597 Cynthia Etheridge 2:19-cv-03118 598 Nancy Fennell 2:19-cv-03132 599 Nellie Ferguson 2:19-cv-03137 600 Treva Graves 2:19-cv-03142 601 Terry Haynes 2:19-cv-03163 602 Bertha Gable 2:19-cv-03165 603 Georgia Jackson-Wade 2:19-cv-03193 604 Rhonda Gomez 2:19-cv-03217 605 Kevin Goss 2:19-cv-03252 606 Paula Jones 2:19-cv-03256 607 Merle Kirkland 2:19-cv-03272 608 Mark Lacombe 2:19-cv-03277 609 Dennis Lacy 2:19-cv-03284 610 Lisa Peters 2:19-cv-03312 611 Shelia Holmes 2:19-cv-03327 612 Edward Miller 2:19-cv-03340 613 Brandon Huggins 2:19-cv-03366 614 Sylvia Perez 2:19-cv-03368 615 Linda Phillips 2:19-cv-03376 616 Michelle Inman 2:19-cv-03391 617 Charlene Jackson 2:19-cv-03415 618 Brenda Ridyolph 2:19-cv-03419 619 Paula Jackson 2:19-cv-03433 620 Sandi Robinson 2:19-cv-03435 621 Wanda Rogers 2:19-cv-03445 622 Barbara Steele 2:19-cv-03458 623 Bettye Stockton 2:19-cv-03467 624 Erick Joe 2:19-cv-03476 625 Nancy Sullivan 2:19-cv-03477 626 Shirley Swope 2:19-cv-03480 627 Cynthia Tucker 2:19-cv-03489 628 Shirly Johnson 2:19-cv-03494 629 Dante Wilder 2:19-cv-03508 630 Moses Willmore 2:19-cv-03520 631 Lidia Yanez 2:19-cv-03524 632 Ronald E. Ker 2:19-cv-03528 633

Karen Collins, As proposed representative of the Estate of Charles Collins, deceased

2:19-cv-03537 634 Carolyn Coule and Jerome Coule 2:19-cv-03544 635 Joel Kight 2:19-cv-03545 636 Rosetta Cunningham 2:19-cv-03553 637 Helen Davis 2:19-cv-03556 638 Paul E. Dilocker 2:19-cv-03589

Exhibit A 639 Ruth Edwards 2:19-cv-03595 640

Rickie Swonger, as Proposed Representative of the Estate of Joyce Boyer, Deceased

2:19-cv-03596 641 Carl Brewer, Jr. 2:19-cv-03605 642

Lowanda Ford, as Proposed Representative of the Estate of William Ford, Deceased

2:19-cv-03612 643 Phillip Cottle 2:19-cv-03618 644 Linda Fresquez 2:19-cv-03624 645 Timothy Buzard 2:19-cv-03626 646 Diana Greathouse 2:19-cv-03633 647

Lena Turknnett, as Proposed Representative of the Estate of Cecilia Gaines, Deceased

2:19-cv-03636 648 Suzanne Coleman-Cunningham 2:19-cv-03638 649 Maria Garcia 2:19-cv-03644 650

Betty Hunter, Individually and as the Representative of the Estate of Thomas Hunter, Deceased

2:19-cv-03645 651 Noreen Davis-Xanthis 2:19-cv-03646 652 Harrison Gift, III 2:19-cv-03651 653 Juanita Mekwuye 2:19-cv-03652 654 Lucille Dunson 2:19-cv-03661 655 Bernadette Green 2:19-cv-03662 656 Barbara Zajack 2:19-cv-03663 657 Ruthie Griffin 2:19-cv-03670 658 Melba Fabel



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2:19-cv-03671 659 Jennifer Collins 2:19-cv-03679 660 Cecile Fichtner 2:19-cv-03681 661 Melissa Harris 2:19-cv-03684 662 Tracy Henderson 2:19-cv-03685 663 Linwood Flemister 2:19-cv-03686 664 Kathlene Henson and Ernest Henson 2:19-cv-03687 665 Elizabeth Flournoy 2:19-cv-03697 666 Cathleen James 2:19-cv-03707 667 James Franklin, Sr. 2:19-cv-03711 668

Cyndi Mazza, as Proposed Representative of the Estate of Josephine Kempf, Deceased

2:19-cv-03716 669 Cynthia Lawhorn 2:19-cv-03739 670 Adeline Henderson 2:19-cv-03769 671 Linda Martinez 2:19-cv-03777 672 Lynell Johnson 2:19-cv-03784 673 Michael Jones 2:19-cv-03806 674 Cara Kreider 2:19-cv-03817 675 Stephen McNeill 2:19-cv-03823 676 Richard Lombardo 2:19-cv-03826 677 Linda Metcalf 2:19-cv-03836 678 Matilde Lopez 2:19-cv-03839 679 Kathleen Mirarchi 2:19-cv-03841 680 Wilma Miller 2:19-cv-03849

Exhibit A 681 Tammy Phipps 2:19-cv-03863 682

Melissa Konarski, Individually and as the Representative of the Estate of Pamela Zaccardi, Deceased

2:19-cv-03869 683 Patty Anderson 2:19-cv-03889 684 Kevin Takacs 2:19-cv-03921 685 Patricia E. Thomas 2:19-cv-03980 686 Brandon Ward 2:19-cv-03987 687 Darren Williams 2:19-cv-04012 688 Belinda Laird 2:19-cv-04031 689 Robert Williams 2:19-cv-04036 690 Gaye Young 2:19-cv-04050 691 Julie Long 2:19-cv-04094 692 Fidencio Lopez 2:19-cv-04111 693 Anita Loudy 2:19-cv-04113 694 Harold Martin 2:19-cv-04125 695 Fernando Martinez, Jr. 2:19-cv-04130 696 Sandra Detherage 2:19-cv-04133 697 Carol Rosenblum 2:19-cv-04146 698 Linda Barnett 2:19-cv-04152 699

Bernice Elkins, As the Representative of the Estate of Chilles Elkins, Deceased

2:19-cv-04161 700 Susan Payne 2:19-cv-04162 701 Keith Ellery 2:19-cv-04166 702 Kerry Bland 2:19-cv-04178 703 Denise Garrette 2:19-cv-04188 704 Josette Schaffer 2:19-cv-04192 705 Barbara Grant 2:19-cv-04197 706 Lynn Seabrook 2:19-cv-04198 707 Mary C. Smith 2:19-cv-04202 708

John Danso, Individually and as the Representative of the Estate of Vickie Danso, Deceased

2:19-cv-04204 709 Rachel Smith 2:19-cv-04207 710 Lawrence Lucerne 2:19-cv-04209 711 Rickey E. Vice 2:19-cv-04211 712 Sandra Mason 2:19-cv-04218 713 Cheryl Woody 2:19-cv-04223 714 Beverly McCaleb 2:19-cv-04224 715

Veda McDonald-Rhodes, Individually and as the Representative of the Estate of Andre McDonald, Deceased

2:19-cv-04228 716 Joanne Smith 2:19-cv-04234 717 Lee Spaulding 2:19-cv-04238 718 Diane Wood 2:19-cv-04242 719 Marvin Edwards 2:19-cv-04248 720 John Mangum 2:19-cv-04263 721 Robert McKim



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2:19-cv-04266 722 Paul Shrode 2:19-cv-04267

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Mary Nicholson, as Proposed Representative of the Estate of Winnie L. Nicholson, Deceased

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2:19-cv-04473 727 Anabel Campbell 2:19-cv-04485 728 Clarice Boutin 2:19-cv-04486 729 Joanna E.
Campbell 2:19-cv-04492 730 Quinten W. Bowen 2:19-cv-04497 731 Michael Bowen 2:19-cv-04503 732
Cathleen A. Brooks 2:19-cv-04504 733 Don Burleson-Castillo 2:19-cv-04505 734 Terri L. Banfield
2:19-cv-04506 735 Lisa Brookshire 2:19-cv-04510 736 Melinda J. Burns 2:19-cv-04515 737 Catherine
Antwine 2:19-cv-04516 738 Roy D. Burress 2:19-cv-04517 739 Jackie L. Brown 2:19-cv-04518 740
Joseph A. Archer 2:19-cv-04519 741 Margie T. Bannister 2:19-cv-04528 742 Danny Asti 2:19-cv-04534
743 Leta Bannon 2:19-cv-04535 744 Janice Weibley, on behalf of Elizabeth L. Boyd 2:19-cv-04537 745
Cassandra Bell 2:19-cv-04548 746 Debra Bramblett 2:19-cv-04561 747 Douglas Ball 2:19-cv-04572 748
Laquiche L. Benjamin 2:19-cv-04573 749 Brent Bregan 2:19-cv-04574 750 Sharon L. Bennett
2:19-cv-04580 751 Charita R. Brown 2:19-cv-04586 752 Johnny Brown 2:19-cv-04592 753 Todd Brown
2:19-cv-04595 754 Yvonne Abrams 2:19-cv-04617 755 Lisa D. Binder 2:19-cv-04628 756 Ricky W.
Barley 2:19-cv-04629 757 Candy J. Bryant 2:19-cv-04630 758 Tammie Y. Cheatham 2:19-cv-04634 759
Charles A. Biondillo 2:19-cv-04643 760 Dennis Bunch 2:19-cv-04650 761 Sherman Bunnell
2:19-cv-04653 762 Ruth Cassidy 2:19-cv-04664 763 Lisa Jo Albright 2:19-cv-04674 764 Brian D.
Alexander 2:19-cv-04680 765 Josephine Basey 2:19-cv-04681 766 Damisha L. Bishop 2:19-cv-04684 767
Joe Alfieri 2:19-cv-04690 768 Christine S. Basile 2:19-cv-04700

Exhibit A 769 Shirley Bass 2:19-cv-04703 770 Sylvia J. Cotton 2:19-cv-04709 771 Gerald E. Coyle
2:19-cv-04719 772 Alice Baxter 2:19-cv-04722 773 Joe Bean 2:19-cv-04730 774 Jackie Crawford
2:19-cv-04734 775 Ruth V. Cleveland 2:19-cv-04735 776

Anna Gonzalez, as Proposed Representative of the Estate of Beatrice Ceja, Deceased

2:19-cv-04750 777 Derrick A. Cloud 2:19-cv-04756 778 Sharon Brewer 2:19-cv-04761 779 Etta M.
Brewer 2:19-cv-04762 780 Tiena Britt 2:19-cv-04773 781 Joe Dehart 2:19-cv-04776 782 Jose Deleon
2:19-cv-04781 783 Twila M. Dillon 2:19-cv-04790 784 Richard Dismuke 2:19-cv-04792 785 Larry Cole
2:19-cv-04798 786 Joel Chapa 2:19-cv-04810 787 Leif E. Anderson 2:19-cv-04821 788 Mary Eddy
2:19-cv-04825 789 Dora Chatman 2:19-cv-04826 790 Stephen Eaton 2:19-cv-04829 791 David A. Ealy
2:19-cv-04837 792 Jack Cunningham 2:19-cv-04844 793 Clara C. Dacko 2:19-cv-04848 794 Linda Duffy
2:19-cv-04862 795 Jean C. Darby 2:19-cv-04878 796 Tina Dasher 2:19-cv-04882 797 Mark A. Anderson
2:19-cv-04883 798 Arnada F. Davis 2:19-cv-04906 799 Jamie Davis 2:19-cv-04907 800 Augusta L.
Colson 2:19-cv-04909 801 John Elliott 2:19-cv-04913 802 David Andrews 2:19-cv-04914 803 Deborah



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Exhibit A 815 Pamela Fix 2:19-cv-04972 816 John Fry 2:19-cv-04976 817 Angela Clinton 2:19-cv-04981 818 Pat J. Evans 2:19-cv-04986 819 Cynthia Bonacci 2:19-cv-04994 820 Robin Fizhugh 2:19-cv-05006 821 Joyce Carvalho 2:19-cv-05016 822 Calvin Carver 2:19-cv-05022 823 Sherley L. Booker 2:19-cv-05027 824 Lee Booth 2:19-cv-05052 825 Albert V. Borboa 2:19-cv-05053 826 Evelyn W. Frey 2:19-cv-05069 827 Mary Duncan 2:19-cv-05072 828 Mary Jane Franklin 2:19-cv-05073 829 Gerardo Gallaga 2:19-cv-05089 830 Libia Felix 2:19-cv-05094 831 Charlotte Edwards 2:19-cv-05097 832 Amber N. Felthausen 2:19-cv-05098 833 Dorothy Edwards 2:19-cv-05099 834 Jacqueline Ferera 2:19-cv-05102 835 Beverly Ficklin 2:19-cv-05111 836 Keith Franklin 2:19-cv-05112 837 Walter Gaddis 2:19-cv-05115 838 Matilda Gagliardi 2:19-cv-05119 839 Barbara S. Foutty 2:19-cv-05132 840 Debbie A. Garcia 2:19-cv-05135 841 Sue A. Fink 2:19-cv-05138 842 Susan K. Kellar 2:19-cv-05166 843 Robert L. Johnson, Jr. 2:19-cv-05168 844 Susan K. Kelley 2:19-cv-05174 845 Timothy Henry 2:19-cv-05177 846 Angela K. Henry 2:19-cv-05185 847 David M. Huddleston 2:19-cv-05186 848 Glenda Jackson 2:19-cv-05193 849 Bobby G Jones 2:19-cv-05196 850 Darlene Huettenberger 2:19-cv-05197 851 Gary D. Johnson 2:19-cv-05199 852 Vivian Knudsen 2:19-cv-05209 853 Annie M Jones 2:19-cv-05217 854 Gordon Hills 2:19-cv-05220 855 Barbara A. Jones 2:19-cv-05230 856 Vickie L. Jones 2:19-cv-05242 857 Ronnie W. Johnson 2:19-cv-05247 858 Vickie Kemp 2:19-cv-05249 859 Kathleen F. Kimble 2:19-cv-05263 860 Michael Hurley 2:19-cv-05267 861 Wesley Hurt 2:19-cv-05271

Exhibit A 862 Billy R. Johns 2:19-cv-05273 863 Donna Hines 2:19-cv-05275 864 Virginia Johnson Gruver 2:19-cv-05281 865 Margaret Jordan 2:19-cv-05295 866 Williard I. Justice 2:19-cv-05304 867 Jane Krause 2:19-cv-05312 868 Carol M. Kristian 2:19-cv-05315 869 Tammy Jobe 2:19-cv-05319 870 Connie Ivory 2:19-cv-05324 871 Karen C. King 2:19-cv-05327 872 Jerry R. Kingery 2:19-cv-05328 873 Constance Gary 2:19-cv-05335 874 Henry H. Hessen 2:19-cv-05341 875 Patrick W. Lacke 2:19-cv-05349 876 Barton S. Hickey 2:19-cv-05353 877 Cinda Geerlings 2:19-cv-05359 878 Pamela Kazak 2:19-cv-05369 879 David Gilbert 2:19-cv-05370 880 Romona Kea 2:19-cv-05375 881 Phyllis j. Kinsey 2:19-cv-05376 882 Edward W. Gildner 2:19-cv-05379 883 Lisa Keith 2:19-cv-05385 884 Deborah Gilstrap 2:19-cv-05387 885 Marion Francis Keith 2:19-cv-05391 886 Sue Langham 2:19-cv-05401 887 William D. Hinshaw 2:19-cv-05415 888 Mark D. Hochul 2:19-cv-05428 889 Kathleen Lalor 2:19-cv-05507 890 Nancy K. Garza 2:19-cv-05528 891 Richard Graham 2:19-cv-05544 892 Louise Jones 2:19-cv-05548 893 June S. Grumbein 2:19-cv-05558 894 Sarah Holland 2:19-cv-05563 895 Ronald W. Grissom 2:19-cv-05600 896 Darren Gines 2:19-cv-05608 897 Milton E. Hansen, Jr. 2:19-cv-05610 898 Loyce A. Hampson 2:19-cv-05623 899 Teresa Haney 2:19-cv-05636 900

Linda Guzman, as Proposed Representative of the Estate of Barbara Guzman, Deceased

2:19-cv-05649 901 Connie Gamez 2:19-cv-05652 902 Jesse Hales 2:19-cv-05697 903 Paul Glasper



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2:19-cv-05699 904 Shelley M. Harder 2:19-cv-05703 905 Anne A. Headrick 2:19-cv-05728 906 Sandra S. Hart 2:19-cv-05731 907 John D. Harrison 2:19-cv-05734

Exhibit A 908 Melvin W. Hendryx 2:19-cv-05745 909 Verna Heideman 2:19-cv-05750 910 Derric R. Henderson 2:19-cv-05773 911 Jason A. Head 2:19-cv-05847 912 Vanessa Harper 2:19-cv-05850 913 Jeffrey A Heaps 2:19-cv-05853 914 Barbara A. Harper 2:19-cv-05864 915 Rhonda Leopold 2:19-cv-06011 916 Carol A. Lentz 2:19-cv-06012 917 Terica Lemon 2:19-cv-06014 918 Alberta Lee 2:19-cv-06017 919 Jerry Lawley, Jr. 2:19-cv-06026 920 Delois Miller 2:19-cv-06069 921 Gail H. Mills 2:19-cv-06072 922 Joseph Mirabile 2:19-cv-06078 923 Barbara Mire 2:19-cv-06079 924 Berchia M. Mitchell 2:19-cv-06106 925 Jason R. Mitchell 2:19-cv-06110 926 Alice Moore 2:19-cv-06123 927 Linda L. Hopkins 2:19-cv-06152 928 Kimberly A. Horn 2:19-cv-06160 929 Veronica C. Williams 2:19-cv-06193 930

Zane Libert, as the Proposed Administrator of the Estate of Julianna Libert, deceased

2:19-cv-06198 931 Jerry Winthrop 2:19-cv-06213 932 Joe N. Little 2:19-cv-06225 933 Betty J. Withrow 2:19-cv-06226 934 Teena Williams 2:19-cv-06236 935 Kevin Wilson 2:19-cv-06305 936 Desiree Lovins 2:19-cv-06323 937 Robert R. Houser 2:19-cv-06349 938 Judith Lambert 2:19-cv-06352 939 Anthony Lanas 2:19-cv-06354 940 Juliana Wimberly 2:19-cv-06370 941 Betty Lowther 2:19-cv-06374 942 Joseph W. Lucas 2:19-cv-06376 943 Candace M. Malin 2:19-cv-06392 944 Helen M. Martinez 2:19-cv-06426 945 Raul Martinez 2:19-cv-06429 946 Rebecca Meader 2:19-cv-06437 947 Shekina D. Mason 2:19-cv-06439 948 Jacobus Mekes 2:19-cv-06443 949

Sharon W. Mellott, as the Proposed Administrator of the Estate of Jerry W. Mellott, deceased

2:19-cv-06445 950 Deborah Mercer 2:19-cv-06452 951 Kym Matthews 2:19-cv-06455 952 Lynda Mercer 2:19-cv-06456

Exhibit A 953 Lena Woolfolk 2:19-cv-06457 954 Jessie M. Merriweather 2:19-cv-06460 955 Oliver T. Mihn 2:19-cv-06482 956 Henry G. Miles 2:19-cv-06486 957 Lora Wilson 2:19-cv-06490 958 Alexander J. Mayfield 2:19-cv-06491 959 Teresa Mayo 2:19-cv-06495 960 Arlene Miller 2:19-cv-06496 961 Thelma McClellen 2:19-cv-06520 962 Brenda McConnachie 2:19-cv-06522 963 Dee A. Mankins 2:19-cv-06533 964 Iris L. Manning 2:19-cv-06534 965 Grachell L. Manuel 2:19-cv-06537 966 Janet S. Markello 2:19-cv-06540 967 Douglas Worden 2:19-cv-06542 968 Joann C. Worden 2:19-cv-06550 969 Marilyn Young 2:19-cv-06599 970 Missouri McCann 2:19-cv-06614 971 Hollis Q. Moore 2:19-cv-06637 972 Antonio Morales 2:19-cv-06641 973 Anna M. Morales 2:19-cv-06642 974 August Morella 2:19-cv-06644 975 Jessie Noiel 2:19-cv-06649 976 Jeffrey A. Oakley 2:19-cv-06656 977 Norma J. Ochoa 2:19-cv-06657 978 Marilyn D. Ojeda 2:19-cv-06660 979 Mindy Oosting 2:19-cv-06673 980 William H. Morgan 2:19-cv-06677 981 Marilyn A. Palma 2:19-cv-06690 982 Darrell M. Papaleo 2:19-cv-06693 983 Betty A. Parks 2:19-cv-06696 984 Kay Parks 2:19-cv-06697 985 Maria D. Parovel 2:19-cv-06699 986 Deborah L Patterson 2:19-cv-06706 987 Lisa York-Williams 2:19-cv-06712 988 Shirley Murray



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2:19-cv-06713 989 Sandy Myers 2:19-cv-06721 990 Renato Natal 2:19-cv-06730 991 Andrenette Marshall 2:19-cv-06748 992 Daniel Peters 2:19-cv-06823 993 David Peterson, Sr. 2:19-cv-06827 994 Leonard Nesbitt 2:19-cv-06828 995 Cherri D. Young 2:19-cv-06837 996

Rachel Martinez, as Proposed Representative of the Estate of Richard Martinez, Deceased

2:19-cv-06845 997 Annette K. Morris 2:19-cv-06862 998 Neal H. Pleasant 2:19-cv-06883

Exhibit A 999 Adrienne Newton 2:19-cv-06885 1000 John Nicaastro 2:19-cv-06889 1001 Eddie Nicholson 2:19-cv-06897 1002 Joyce Niemi 2:19-cv-06899 1003 Luis Nieves 2:19-cv-06900 1004 Barbara Noble 2:19-cv-06911 1005 Norma Wright 2:19-cv-06918 1006 Norman Reynolds 2:19-cv-06938 1007 Luis Rodriguez-Charriez 2:19-cv-06947 1008 Walter R. Roger 2:19-cv-06950 1009 James Potter 2:19-cv-06962 1010 Misty C. Powell 2:19-cv-06966 1011 Leon Rhodes and Veronica Rhodes 2:19-cv-06967 1012 Carolyn Powers 2:19-cv-06974 1013 Francis Presto 2:19-cv-06981 1014 Deborah A. Richard 2:19-cv-06989 1015 Daniel Paul 2:19-cv-07003 1016 Louise C. Peaco 2:19-cv-07010 1017 Pamela M. Pruitt 2:19-cv-07022 1018 Kathy Ridgeway 2:19-cv-07034 1019 Esteban Rojo 2:19-cv-07039 1020 Anthony Riley 2:19-cv-07045 1021 Ricky L. Wilson 2:19-cv-07047 1022 Annette H. Ringley 2:19-cv-07049 1023 Linda Roach 2:19-cv-07057 1024 Leona Quinn 2:19-cv-07059 1025 Frank Quinones 2:19-cv-07065 1026 Sharon Raabe 2:19-cv-07069 1027 Judith Robertson 2:19-cv-07082 1028 Martina Ramirez 2:19-cv-07083 1029 James Randolph 2:19-cv-07104 1030 Debbie M. Rankin 2:19-cv-07111 1031 April Rondeau 2:19-cv-07119 1032 Ruth Roozing-Grimsrud 2:19-cv-07126 1033 Manuel G. Rodriguez 2:19-cv-07137 1034 David B. Zarosky 2:19-cv-07139 1035 Brandi Peebles 2:19-cv-07166 1036

David Pennypacker, as Proposed Representative of the Estate of Cynthia Pennypacker, Deceased

2:19-cv-07175 1037 Eric D. Perkins 2:19-cv-07188 1038 Michael Scadden 2:19-CV-07191 1039

Claudia Ortega, as the Proposed Administrator of the Estate of Josefina Silva, deceased

2:19-cv-07201 1040 William Schiffert 2:19-cv-07203 1041 Sydney B. Silver 2:19-cv-07206 1042 Darlet A. Simile 2:19-cv-07208 1043 Bruce E. Simmons 2:19-cv-07210

Exhibit A 1044 Mary M. Simmons 2:19-cv-07214 1045 Ronald A. Simmons 2:19-cv-07216 1046 Sheryl D. Simpson 2:19-cv-07218 1047 Theresa Sipler 2:19-cv-07222 1048 Ben Schwartz 2:19-cv-07238 1049 Robert Smith 2:19-cv-07247 1050

Rita Scott, As Proposed Representative of the Estate of Melvern Scott, deceased

2:19-cv-07250 1051 Nancy Rouseau 2:19-cv-07267 1052 Lisa C. Rowlette 2:19-cv-07272 1053 Amanda Scrimpsheer 2:19-cv-07300 1054 Roger Zickefoose 2:19-cv-07306 1055 Scott E. Shaner 2:19-cv-07348 1056 Raymond L. Shaner 2:19-cv-07349 1057 Anita L. Shank 2:19-cv-07352 1058 Carla A. Smith



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2:19-cv-07358 1059 Debra Sheffey 2:19-cv-07372 1060 Gloria Sheppard 2:19-cv-07382 1061 Patricia A. Smith 2:19-cv-07383 1062 Andrew Sherrod 2:19-cv-07388 1063 Sharon Smith 2:19-cv-07389 1064 Valorie Sherrod 2:19-cv-07390 1065 Annette H. Shook 2:19-cv-07400 1066 Ysleta Smith 2:19-cv-07403 1067 Arlene Sidenstick 2:19-cv-07425 1068 David A. Soliz 2:19-cv-07493 1069 Gilbert J. Sosa 2:19-cv-07500 1070 Christina Spaulding 2:19-cv-07509 1071 Heidi McGee 2:19-cv-07516 1072 Troy McKelvy 2:19-cv-07521 1073 Shanda M. Meacacke 2:19-cv-07543 1074 Alan R. Sussman 2:19-cv-07552 1075 Wendy Swartz 2:19-cv-07555 1076 Brenda Swift 2:19-cv-07558 1077 Dawn Takacs 2:19-cv-07560 1078 Kermit E. Tate 2:19-cv-07563 1079 Tony E. Taylor 2:19-cv-07569 1080 Ronald Perrin 2:19-cv-07572 1081 Barbara A. Rauenzahn 2:19-cv-07574 1082 Janet Reardon 2:19-cv-07580 1083 Elspeth A. Teed 2:19-cv-07584 1084 Michael B. Tenore 2:19-cv-07587 1085 Ruby M. Terrasas 2:19-cv-07589 1086 Pamela D. Terry 2:19-cv-07590 1087 Miriam Thomas 2:19-cv-07597 1088 Willie Thomas 2:19-cv-07600 1089 Zoanthony M. Thomas 2:19-cv-07601

Exhibit A 1090 Kim Sposato 2:19-cv-07621 1091 Dean St. John 2:19-cv-07624 1092

Diane Robinson, As Proposed Representative of the Estate of James Stacker, Deceased

2:19-cv-07627 1093 Daniel M. Russell 2:19-cv-07633 1094 Carrie L. Stark 2:19-cv-07634 1095 Courtney Stark 2:19-cv-07636 1096 Rose Starr 2:19-cv-07639 1097 Sally D. Reed 2:19-cv-07642 1098 Gail E. Sachs 2:19-cv-07653 1099 Sandra Steen 2:19-cv-07658 1100 Sheila K. Sain 2:19-cv-07661 1101 Yvette Sanders 2:19-cv-07673 1102 Vashon Stephens 2:19-cv-07676 1103 Sonja F. Anthony 2:19-cv-07681 1104 Madge E. Reed 2:19-cv-07701 1105 Dea Reed 2:19-cv-07707 1106 Linda K. Reed 2:19-cv-07717 1107 Shasta Cook 2:19-cv-07725 1108 Norma Fuentes 2:19-cv-07739 1109 Donna J. Renard 2:19-cv-07763 1110 Mark E. Lynch 2:19-cv-07771 1111 Tammy Sateriale 2:19-cv-07793 1112 Arnoldo Saucedo 2:19-cv-07799 1113 Rodney Stewart 2:19-cv-07800 1114 Ricky Stewart 2:19-cv-07804 1115 Nicholas Savini 2:19-cv-07825 1116 Lennie Stowes 2:19-cv-07851 1117 Joan V. Streek 2:19-cv-07857 1118

Fred Stuhlemmer, As Proposed Representative of the Estate of Leah Stuhlemmer, Deceased

2:19-cv-07864 1119 Eric T. Whitfield 2:19-cv-07871 1120 Susan Reitz 2:19-cv-07879 1121 Nowell E. Renth 2:19-cv-07884 1122 Silvia Retana 2:19-cv-07886 1123 Kevin Wiggs 2:19-cv-07893 1124 Sylvia Thrower 2:19-cv-07898 1125 Mona L. Timms 2:19-cv-07901 1126 Robert W. Tonini 2:19-cv-07908 1127 Jeffrey L. Montgomery 2:19-cv-07929 1128 Linda Palafox 2:19-cv-07955 1129 Mary N. Vieyra 2:19-cv-07990 1130 Mary Vincent 2:19-cv-08003 1131 Geraldine Virges 2:19-cv-08004 1132 Carmen Vitello 2:19-cv-08007 1133 Lois Torres 2:19-cv-08013 1134 Randy E. Totenhagen 2:19-cv-08017

Exhibit A 1135 Kimberly Wilfong 2:19-cv-08028 1136 Michael Waddy 2:19-cv-08035 1137 Kimberly A. Willhite 2:19-cv-08043 1138 Jeanette R. Wadholm-Williams 2:19-cv-08045 1139 Brycelynn Wakkukait 2:19-cv-08095 1140 Bonnie S. Walburn 2:19-cv-08097 1141 Dee N. Trejo 2:19-cv-08141 1142 Donna M. Tritto 2:19-cv-08150 1143 Arthur L. Waller 2:19-cv-08151 1144 Joseph Walsh 2:19-cv-08155 1145 Wanda J. Turnage 2:19-cv-08200 1146 Donald Turnbow 2:19-cv-08202 1147 Donald W. Vanadore Jr.



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2:19-cv-08253 1148 Roberta L. Vankuren 2:19-cv-08259 1149 Linda I. Ruffin 2:19-cv-08279 1150 Jerome G. Washington 2:19-cv-08291 1151

Cherry Watson as Proposed Representative of the Estate of Gary E. Watson, Deceased

2:19-cv-08323 1152 Betty Webb 2:19-cv-08430 1153 Peggy Wehr 2:19-cv-08436 1154 Daniel E. Varner 2:19-cv-08449 1155 Maria Welch 2:19-cv-08503 1156 Jimmy Welch 2:19-cv-08505 1157 Cody Weldon 2:19-cv-08506 1158 Cornelius Westbrook 2:19-cv-08509 1159 Audrey M. Werner 2:19-cv-08547 1160 Kathleen West 2:19-cv-08562 1161 Joseph White Sr. 2:19-cv-08573 1162 Sandra E. White 2:19-cv-08601 1163 Robert Acosta 2:19-cv-08709 1164 Eugene Fisher 2:19-cv-08838 1165

Mary Bellmore, Individually and as the Representative of the Estate of Donn Bellmore, Deceased

2:19-cv-10047 1166 Katie Ware 2:19-cv-10141 1167 Michael Davis 2:19-cv-11777 1168 Dennis Thompson 2:19-cv-12040 1169 Janet Burau 2:19-cv-12611 1170 Rose Campbell 2:19-cv-12613 1171 Betty Jessie 2:19-cv-12618 1172 William Sayles 2:19-cv-12628 1173 Robert Brantley 2:19-cv-20086 1174 Brenda Kellam 2:20-cv-07294 1175 Kathleen Anderson 2:20-cv-07343 1176 Sandra Loesche 2:20-cv-07344 1177 Alex Montiel 2:20-cv-07345 1178 Dolores Payne 2:20-cv-07348 1179 Glenda Kelsey 2:20-cv-20741

Exhibit A 1180 Sheila Kindoll 2:20-cv-20742 1181 Linda K Shierling 2:20-cv-20743

