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STATE OF NEW YORK
LITIGATION COORDINATING PANEL

NEW YORK
COUNTY CLERK'S OFFICE

Panel Case No. 0005/2005

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

-----X
Frances Goldwasser and Benjamin Goldwasser,

Plaintiff,

Index No. 117698/2004

- against -

C.B. Fleet Holding Company, Inc., et al.,

Defendant.

-----X

AND OTHER MATTERS LISTED ON THE ATTACHED APPENDIX

DECISION AND ORDER

The plaintiffs in the action captioned above, moved the Litigation Coordinating Panel ("the Panel") for an order pursuant to Section 202.69 of the Uniform Rules of the Trial Courts, coordinating the above captioned matter and six other State Supreme Court actions presently pending in various judicial districts, all of which allege claims for injuries caused by the use of Fleet Phospho - Soda as a bowel cleanser. All seven actions also "...assert the same causes of action sounding in products liability, breach of warranty, negligence, violation of General Business Law Section 349, false advertising and fraud/deceit..." * The plaintiffs in all seven actions are represented by the firm of Flemming, Zulack & Williamson, LLP.

The responding defendants, represented by the firm of Heidell, Pittoni, Murphy & Bach, LLP, submit an Affirmation in "Partial Opposition to the Application for Coordination." The defendants, while not opposing coordination in six of the seven cases, do oppose the coordination of the matter entitled: Eugene Strank and Joan Strank v. C.B. Fleet Holding Company, Inc., et al., New York County Supreme Court Index Number 101324/2005, before the Honorable Leland DeGrasse. The defendants argue that there was a motion to dismiss based on *forum non conveniens* grounds pending before the court in that action. This objection

* citing Plaintiff's Affirmation of Bernard Daskal, Esq. in support of motion, page 3, paragraph 3

has since been rendered moot by the decision of the Honorable Leland DeGrasse dated December 12, 2005, granting the defendant's motion to dismiss and directing the filing of the action in the State of New Jersey, for the reasons and conditions set forth in the decision.

The Panel having met and considered all the issues and circumstances involved, has concluded that the application should be granted, including all pending matters and those that may hereafter be filed, except for the matter of *Strunk*, which has already been disposed of by the decision of the Honorable Leland DeGrasse. Coordination shall take place in the County of New York before a Justice of that County to be designated by the administrative Judge thereof.

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 of 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 use of Fleet Phospho - Soda as a bowel cleanser and that were filed in the Supreme Court of the State of New York heretofore and that remain active but 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 of the Uniform Rules of the Trial Courts of the State of New York, before the 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 its 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 to the 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 action is or hereafter shall be pending (other than the Supreme Court of New York County) as provided in subdivision F, the said Clerk shall forthwith transfer to the clerk of the Supreme court, New York County, after payment of the 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.

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 on with the authorization and on behalf of all other members of the Panel.

Dated: New York, New York
March 28, 2006

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Justices of the Panel:

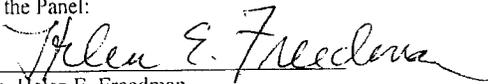
Hon. Helen E. Freedman
Presiding Justice, First Department

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

LCP NO.: 0005/2005

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

-----X
FRANCES GOLDWASSER and
BENJAMIN GOLDWASSER,

Plaintiffs,

- against -

C.B. FLEET HOLDING COMPANY, INC., et al.,

Defendants.
-----X

Index No.: 117698/04

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

-----X
ANA KRIEGER and ALAN KRIEGER,

Plaintiffs,

- against -

C.B. FLEET HOLDING COMPANY, INC., et al.,

Defendants.
-----X

Index No.: 110380/05

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

-----X
VERONICA LAKE,

Plaintiff,

- against -

C.B. FLEET HOLDING COMPANY, INC., et al.,

Defendants.
-----X

Index No.: 105408/05

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

-----X
EUGENE STRANK and JOAN STRANK,

Plaintiffs,

Index No.: 101324/05

- against -

Hon. Leland DeGrasse

C.B. FLEET HOLDING COMPANY, INC., et al.,

Defendants.
-----X

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
GOLDIE GUTTMAN and JOSEPH GUTTMAN,

Plaintiffs,

Index No.: 14600/05

- against -

C.B. FLEET HOLDING COMPANY, INC., et al.,

Defendants.
-----X

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
NEIL LEVINE and HOLLY LEVINE,

Plaintiffs,

Index No.: 351/05

- against -

C.B. FLEET HOLDING COMPANY, INC., et al.,

Defendants.
-----X

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
DOLORES FISHER and HUGH FISHER,

Plaintiffs,

Index No.: 001172/05

- against -

C.B. FLEET HOLDING COMPANY, INC., et al.,

Defendants.
-----X