

MAY 20 2019

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Coordination Attorney

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JCCP 5043

15 CHAIR OF THE JUDICIAL COUNCIL
16 OF THE STATE OF CALIFORNIA

17 PETE RODRIGUEZ, et. al.,
18 Plaintiffs,

Santa Clara County Superior Court
CASE NO. TBA¹

19 v.

20 GILEAD SCIENCES, INC., et al.,
21 Defendants:

22 KEVIN CRAWFORD, et. al.,
23 Plaintiffs,

Santa Clara County Superior Court
CASE NO. TBA

24 v.

25 GILEAD SCIENCES, INC., et al.,
26 Defendants.

27 MARK BEASLEY, et. al.,
28 Plaintiffs,

San Francisco County Superior Court
CASE NO. CGC-19-575546

v.

GILEAD SCIENCES, INC., et al.,
Defendants.

¹ These actions have been filed and are awaiting assignment of a Case Number.

1 CHARLES TENORIO, et. al.,
2 Plaintiffs,

3 v.

4 GILEAD SCIENCES, INC., et al.,
5 Defendants.

**San Francisco County Superior Court
CASE NO. CGC-19-575245**

6 ARTURO MARTINEZ PALACIOS, et. al.,
7 Plaintiffs,

8 v.

9 GILEAD SCIENCES, INC., et al.,
10 Defendants.

**San Francisco County Superior Court
CASE NO. CGC-19-575553**

11 LEROY PRUITT, et. al.,
12 Plaintiffs,

13 v.

14 GILEAD SCIENCES, INC., et al.,
15 Defendants.

**Alameda County Superior Court
CASE NO. RG-19-014851**

16 ERIC GONZALEZ, et. al.,
17 Plaintiffs,

18 v.

19 GILEAD SCIENCES, INC., et al.,
20 Defendants.

**Yuba County Superior Court
CASE NO. CVPO19-00662**

21 MARC JACOBUS, et. al.,
22 Plaintiffs,

23 v.

24 GILEAD SCIENCES, INC., et al.,
25 Defendants.

**Contra Costa County Superior Court
CASE NO. CIVMSC19-00977**

26
27
28

1 DANIEL GLASNOVICH, et. al.,

2 Plaintiffs,

3 v.

4 GILEAD SCIENCES, INC., et al.,

5 Defendants.

Sacramento County Superior Court
CASE NO. T192022

**DECLARATION OF M. ELIZABETH
GRAHAM IN SUPPORT OF PETITION
FOR COORDINATION**

6
7 I, M. ELIZABETH GRAHAM, declare:

8 1. I am an attorney duly licensed to practice law in all courts of the State of California
9 and am an attorney with the law firm of Grant & Eisenhofer P.A., counsel for the plaintiffs and
10 petitioners. I have personal knowledge of the matters set forth herein, and if called upon to testify,
11 would be competent to do so.

12 2. This petition is brought for the purpose of seeking coordination of sixteen (16),
13 mostly multi-plaintiff complaints that arise from the same set of facts and involve almost identical
14 issues of law. In particular, the petitioners seek to coordinate the cases included in **Exhibit A** with
15 the case of *Pete Rodriguez et. al. v. Gilead Sciences, Inc., et. al.*, which is pending in the Santa
16 Clara County Superior Court.

17 Each of the cases listed in **Exhibit A** alleges that Gilead Sciences, Inc. ("Gilead") designed,
18 manufactured, marketed, labeled, tested, distributed and/or sold the prescription drugs Viread®,
19 Truvada®, Atripla®, Complera® and Stribild® (collectively "TDF-based medications") for the
20 prevention or treatment of Human Immunodeficiency Virus-1 ("HIV") and that Plaintiffs' ingestion
21 of these TDF-based medications caused injury to each Plaintiff in the respective actions.

22 3. The above-referenced actions petitioner is seeking to coordinate are listed in **Exhibit**
23 **A** to the Declaration of M. Elizabeth Graham in support of this petition, together with the names
24 and addresses of their respective counsel to the extent known, title and case number, date of filing,
25 title of the court in which the action is pending, and the status of each pending action to the extent
26 known.

1 4. No other action is known to be pending in a court of this state that shares a common
2 question of fact or law with the included actions.

3 5. All of these cases are complex under California Rule of Court 3.400(b) because they
4 will involve: (1) numerous pretrial motions raising difficult or novel legal issues that will be time-
5 consuming to resolve; (2) management of a large number of witnesses or a substantial amount of
6 documentary evidence; and (3) coordination with related actions pending in one or more courts in
7 other counties, states, or countries, or in a federal court.

8 6. Additionally, the actions sought to be coordinated meet the standards described in
9 California Code of Civil Procedure section 404.1.

10 a. All actions involve common questions of law and fact that predominate and are
11 significant to the litigation. These common questions of law and fact include,
12 but are not limited to:

13 1) Whether Gilead had a duty to continue developing TAF-based
14 medications in lieu of or alongside TDF-based medications;

15 2) Whether Gilead knew or had reason to know of the TDF-based
16 medications' dangerous propensities when they were released to the
17 public;

18 3) Whether Gilead acted negligently in bringing the less safe TDF-based
19 medications to market when it knew of TAF's superior safety profile;
20 and

21 4) Whether Gilead promoted TDF-based medications by falsely
22 advertising, warranting and representing that the TDF-based
23 medications were the safest, most efficacious tenofovir-based
24 treatment for HIV-1 infection.

25 b. Coordination of these related actions will serve the convenience of the parties,
26 witnesses and counsel because discovery in these overlapping actions is likely
27 to be duplicative if they proceed separately. Coordination of these actions will
28 prevent repetitive and redundant depositions regarding the same issues by

1 witnesses. In addition, without coordination, duplicative motions for summary
2 judgment, the adequacy of the pleadings, and other matters are sure to arise.

3 c. All of the included actions were filed within the past eighteen (18) months.

4 Therefore, it is unlikely that coordination of these actions will disrupt the
5 progress of any individual action.

6 d. Absent coordination, redundant duplicative discovery and motion practice in
7 these overlapping actions would waste litigant and judicial resources.

8 Duplicative discovery will result in unnecessary copying costs for the litigants.

9 In addition, the need to take the same depositions in each of these actions will
10 likely increase travel costs for all the litigants' counsel.

11 e. Failure to coordinate these actions creates a risk of inconsistent or duplicative
12 judgments and orders. Without coordination, separate courts will decide

13 essentially the same issues and may render different rulings. Coordination of
14 these actions in a single court would avoid this possibility.

15 7. Three similarly-situated, multi-plaintiff actions filed in the United States District
16 Court for the Northern District of California have recently been consolidated for pre-trial purposes
17 before the Hon. Jon S. Tigar in San Francisco. See April 29, 2019 Stipulated Order of
18 Consolidation, attached as **Exhibit B**.

19 8. For these reasons, and with the agreement of Gilead, the Included Actions should
20 be coordinated in Santa Clara County, California. To date, two (2) of the sixteen (16) complaints,
21 including over one hundred (100) plaintiffs, have already been filed in Santa Clara County. As the
22 Council is assuredly aware, the Superior Court of Santa Clara County has significant experience
23 managing complex, multi-party cases such as this and is highly qualified, with the administrative
24 structure in place, to bring this case to an efficient and timely resolution. Santa Clara County
25 Superior Court is also in close proximity to Gilead's headquarters, as well as to the Northern District
26 of California court where the related federal cases are pending before Judge Tigar, thus allowing
27 the parties to efficiently conduct discovery and coordinate across jurisdictions.²

28 ² Additionally, Plaintiff Petitioners and Gilead have carefully considered San Mateo County as a

ALAMEDA SUPERIOR COURT

1. *Pruitt, et al. v. Gilead Sciences, Inc., et al.*
(Case no. RG-19-014851)
Complaint Filed: 4/12/2019
Status: Deemed Complex
Plaintiff's Counsel:

Grant & Eisenhofer P.A.
M. Elizabeth Graham,
Thomas V. Ayala
Adam J. Gomez
Tudor I. Farcas
101 California Street, Suite 2710
San Francisco, CA 94111

CONTRA COSTA SUPERIOR COURT

1. *Jacobus v. Gilead Sciences, Inc.*
(Case No. CIVMSC19-00977)
Complaint Filed: 5/16/2019
Status: Complex Designation Pending
Plaintiff's Counsel:

Kershaw Cook & Talley, P.C.
William A. Kershaw
Ian J. Barlow
401 Watt Avenue, Suite 1
Sacramento, CA 95864

LOS ANGELES SUPERIOR COURT

1. *Lujano, et al. v. Gilead Sciences, Inc.*
(Case No. BC-702302)
Complaint Filed: 5/8/2018
Status: Deemed Complex
Plaintiff's Counsel:

Rutherford Law
Jack M. Rutherford
John Adcock
2811 ½ 2nd Avenue
Los Angeles, CA 90018

AIDS Healthcare Foundation

Liza M. Brereton

Arti Bhimani

Tom Myers

6225 W. Sunset Boulevard, 21st Floor

Los Angeles, CA 90028

2. *Anderson, et al. v. Gilead Sciences, Inc.*

(Case No. 19-STCV-12356)

Complaint Filed: 4/10/2019

Status: Deemed Complex

Plaintiff's Counsel:

HIV Litigation Attorneys

Liza M. Brereton

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Tom Myers

6225 W. Sunset Boulevard, 21st Floor

Los Angeles, CA 90028

3. *Martinez, et al. v. Gilead Sciences, Inc.*

(Case No. BC-705063)

Complaint Filed: 5/8/2018

Status: Deemed Complex

Plaintiff's Counsel:

Rutherford Law

Jack M. Rutherford

John Adcock

2811 ½ 2nd Avenue

Los Angeles, CA 90018

4. *Grim, et al. v. Gilead Sciences, Inc.*

(Case No. 18-STCV-09777)

Complaint Filed: 12/27/2018

Status: Deemed Complex

Plaintiff's Counsel:

Salkow Law

Richard Gordon Salkow

1540 7th St., Suite 206,

Santa Monica, CA 90401

The Onder Law Firm
James G. Onder
110 East Lockwood
St. Louis, MO 63119

Elias Gutzler Spicer, LLC
Richard Elias
130 South Bemiston, Suite 302
St. Louis, MO 63119

5. *Newton, et al. v. Gilead Sciences, Inc.*
(Case No. 19-STCV-10185)
Complaint Filed: 3/26/2019
Status: Deemed Complex
Plaintiff's Counsel:

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Richard Gordon Salkow
1540 7th St., Suite 206,
Santa Monica, CA 90401

The Onder Law Firm
James G. Onder
110 East Lockwood
St. Louis, MO 63119

SACRAMENTO SUPERIOR COURT

1. *Glasnovich v. Gilead Sciences, Inc.*
(Case No. TBA)
Complaint Filed: 5/17/2019
Status: Complex Designation Pending
Plaintiff's Counsel:

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SAN FRANCISCO SUPERIOR COURT

1. *Tenorio, et al. v. Gilead Sciences, Inc.*
(Case no. CGC-19 -575245)
Complaint Filed: 4/12/2019
Status: Complex Determination Pending
Plaintiff's Counsel:

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San Francisco, CA 94111

Jenner Law, P.C.
Robert K. Jenner
Kathleen Kerner
1829 Reisterstown Road, Suite 350
Baltimore, MD 21208

2. *Beasley, et al. v. Gilead Sciences, Inc.*
(Case no. CGC-19 -575546)
Complaint Filed: 4/26/2019
Status: Complex Determination Pending
Plaintiff's Counsel:

Grant & Eisenhofer P.A.
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3. *Martinez Palacios, et al. v. Gilead Sciences, Inc.*
(Case no. CGC-19-575553)
Complaint Filed: 4/26/2019
Status: Complex Determination Pending
Plaintiff's Counsel:

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SAN MATEO SUPERIOR COURT

1. *Nordeen, et al. v. Gilead Sciences, Inc.*
(Case No. 19-CIV-02056)
Complaint Filed: 4/10/2019
Status: Deemed Complex
Plaintiff's Counsel:

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2. *Alberty, et al. v. Gilead Sciences, Inc.*
(Case No. 19-CIV-02680)
Complaint Filed: 5/16/2019
Status: Deemed Complex
Plaintiff's Counsel:

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SANTA CLARA SUPERIOR COURT

1. *Rodriguez, et al. v. Gilead Sciences, Inc.*
(Case No. TBA; eFiling No. 2873037)
Complaint Filed: 5/13/2019
Status: Complex Determination Pending
Plaintiff's Counsel:

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2. *Crawford, et al. v. Gilead Sciences, Inc.*
(Case No. TBA; eFiling No. 2898056)
Complaint Filed: 5/17/2019
Status: Complex Determination Pending
Plaintiff's Counsel:

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YUBA COUNTY SUPERIOR COURT

1. *Gonzalez v. Gilead Sciences, Inc.*
(Case no. CVPO-19-00662)
Complaint Filed: 4/12/2019
Status: Complex Determination Pending
Plaintiff's Counsel:

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