Nos. 18-12139, 18-12149, 18-13049, 18-13312
(consolidated)

United States Court of Appeals for the Eleventh Circuit

MSP Recovery Claims, Series LLC,

Plaintiff and Appellants,

vs.

ACE American Insurance Company, Auto-Owners Insurance Company, Owners Insurance Company, Southern-Owners Insurance Company, Travelers Casualty and Surety Company,

Defendants and Appellees.

- - -

MSPA Claims 1, LLC,

Plaintiff and Appellant,

vs.

Liberty Mutual Fire Insurance Company,

Defendant and Appellee.

BRIEF OF DRI, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITION FOR REHEARING *EN BANC*

After Dismissal Orders from the United States District Court for the Southern District of Florida, Case Nos. 17-cv-23749-PAS, 17-23841-PAS, 17-cv-23628-KMW, 17-cv-22539-KMW

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CERTIFICATE OF INTERESTED PERSONS

Proposed *amicus curiae* DRI, Inc., pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1, 26.1-2, and 26.1-3, certifies that the following persons have an interest in the outcome of this case:

10762962 Canada Inc.

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8527512 Canada Inc.

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American Equity Insurance Company

American Equity Specialty Insurance Company

American Insurance Association

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The Automobile Insurance Company of Hartford, Connecticut

Auto-Owners Insurance Company

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The Charter Oak Fire Insurance Company

Chubb Group Holdings, Inc.

Chubb INA Holdings, Inc.

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Clarke Silvergate Williams & Montgomery

Coffey Burlington, P.L.

Coffin, Christopher L., Esq.

Constitution State Services LLC

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Discover Specialty Insurance Company

The Dominion of Canada General Insurance Company

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Dykema Gossett PLLC

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F&G UK Underwriters Limited

Farmington Casualty Company

Fidelity and Guaranty Insurance Company

Fidelity and Guaranty Insurance Underwriters, Inc.

First Floridian Auto and Home Insurance Company

Florida Department of Financial Services

Florida Healthcare Plus, Inc.

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INA Financial Corporation

INA Holdings Corporation

Jupiter Holdings, Inc.

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Lamet, Jonathan D., Esq.

Lavisky, Matthew J., Esq.

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Northland Casualty Company

Northland Insurance Company

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The Travelers Companies, Inc. (TRV)

Travelers Casualty and Surety Company

The Travelers Home and Marine Insurance Company

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The Travelers Indemnity Company of America

The Travelers Indemnity Company of Connecticut

The Travelers Lloyds Insurance Company

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Turner, Tracy L., Esq.

Turnoff, The Honorable William C. (S.D. Fla. retired)

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TPC U.K. Investments LLC

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Travelers (Bermuda) Limited

Travelers Brazil Acquisition LLC

Travelers Brazil Holding LLC

Travelers Casualty and Surety Company

Travelers Casualty and Surety Company of America

Travelers Casualty and Surety Company of Europe Limited

Travelers Casualty Company of Connecticut

Travelers Casualty Insurance Company of America

Travelers Casualty UK Investments LLC

Travelers Constitution State Insurance Company

Travelers Commercial Casualty Company

Travelers Commercial Insurance Company

Travelers Distribution Alliance, Inc.

Travelers Excess and Surplus Lines Company

Travelers Global, Inc.

Travelers Indemnity U.K. Investments LLC

Travelers Insurance Company Limited

Travelers Insurance Company of Canada

Travelers Insurance Designated Activity Company

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Travelers Lloyds of Texas Insurance Company

Travelers London Limited

Travelers Management Limited

Travelers Marine, LLC

Travelers MGA, Inc.

Travelers Participações em Seguros Brasil S.A.

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Travelers Personal Security Insurance Company

Travelers Property Casualty Corporation

Travelers Property Casualty Company of America

Travelers Property Casualty Insurance Company

Travelers Seguros Brasil S.A.

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Travelers Texas MGA, Inc.

Travelers Underwriting Agency Limited

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United States Fidelity and Guaranty Company

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Wiggins & Dana, LLP

Williams, The Honorable Kathleen M. (S.D. Fla.)

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Xbridge Holdings Limited

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Zincone, Francesco A., Esq.

CORPORATE DISCLOSURE STATEMENT

Proposed *amicus curiae* DRI is an international organization that includes approximately 17,000 attorneys, corporations, and insurance companies involved in the defense of civil litigation. DRI has no parent corporation and no publicly traded company owns 10% or more of its stock.

/s/ Lisa M. Baird
Counsel for Amicus Curiae *DRI, Inc.*

STATEMENT PURSUANT TO 11th CIR. LOCAL RULE 35-5(c)

I express a belief, based on a reasoned and studied professional judgment, that this appeal involves one or more questions of exceptional importance:

Did the Panel err in holding that downstream actors who have not made conditional payments under, and are not otherwise subject to, the Medicare Secondary Payer Act ("MSP Act") may bring a cause of action for recovery of unreimbursed Medicare Advantage payments, when enlarging the statutory private right of action in this manner will make it harder to resolve personal injury litigation and lead to more burdensome and complex litigation?

/s/ *Lisa M. Baird*
Lisa M. Baird

ATTORNEY OF RECORD FOR
DRI, Inc.

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STATEMENT OF THE ISSUES MERITING *EN BANC* CONSIDERATION

Did the Panel err in holding that downstream actors who have not made conditional payments under, and are not otherwise subject to, the Medicare Secondary Payer Act ("MSP Act") may bring a cause of action for recovery of unreimbursed Medicare Advantage payments, when enlarging the statutory private right of action in this manner will make it harder to resolve personal injury litigation and lead to more burdensome and complex litigation?

II
STATEMENT OF FACTS

DRI refers the Court to the statement of facts detailed in appellees' petitions for rehearing *en banc*.

III
INTEREST OF *AMICUS CURIAE* AND SUMMARY OF THE ARGUMENT

Amicus curiae DRI, Inc. ("DRI") is an international organization of approximately 17,000 attorneys, corporations and insurance companies who defend the interests of businesses and individuals in civil litigation. DRI's

mission includes enhancing the skills, effectiveness, and professionalism of defense lawyers, promoting appreciation for the role of defense lawyers in our legal system, and anticipating and addressing substantive and procedural issues germane to defense lawyers and their clients.

DRI has long been a voice in the ongoing effort to make the civil justice system more fair, efficient, and consistent. To promote these objectives, DRI participates as *amicus curiae* in cases that raise issues of import to its members, their clients, and to the judicial system. This is one such case.

The Panel's opinion here builds on the shaky foundation of *Humana Medical Plan, Inc. v. Western Heritage Ins. Co.*, 832 F.2d 1229 (11th Cir. 2016) ("*Humana I*"). In *Humana I*, a divided panel of this Court interpreted 42 U.S.C. Section 1395y(b)(3)(A) of the Medicare Secondary Payer Act ("MSP Act") as permitting private Medicare Advantage Organizations (or "MAOs") to sue a tortfeasor's liability insurer (a "primary payer" under the MSP Act) for double damages for unreimbursed medical claims. *Id.* at 1239. In interpreting the statute in this manner, the panel majority picked sides on a controversial issue. *See Workers' Compensation Law: Is Medicare Advantage Entitled To Bring A Private Cause Of Action Under The Medicare Secondary Payer Act?*, 41 Wm. Mitchell L. Rev. 1408 (2015). It did so over Chief Judge Pryor's dissent [*Humana I*, 832 F.3d at 1240 (Pryor, C.J. diss.)], and the Court

declined rehearing *en banc* over Judge Tjoflat's dissent [*Humana Med. Plan, Inc. v. W. Heritage Ins. Co.*, 880 F.3d 1284 (11th Cir. 2018) ("*Humana II*") (Tjoflat, J., diss.)].

The Panel here takes the *Humana I* holding to new extremes by extending the double recovery private right of action to downstream actors who are *not* MAOs. The rehearing petitions have explained the myriad legal reasons why this ruling is wrong and warrants *en banc* review, and DRI will not repeat those reasons here. But if this Court is poised to let the Panel's expansive interpretation of Section 1395y(b)(3)(A) stand, then it should do so with a clear-eyed understanding of the adverse practical consequences.

That is where DRI uniquely is positioned to provide insight. To put it bluntly, the Panel's opinion has made resolving personal injury litigation exponentially more difficult, if not practically impossible—a significant consideration when nearly 40% of the federal civil docket consists of product liability personal injury actions. *See* Daniel S. Wittneberg, Multidistrict Litigation: Dominating the Federal Docket (Feb. 19, 2020), available at https://www.americanbar.org/groups/litigation/publications/litigation-news/business-litigation/multidistrict-litigation-dominating-federal-docket/.

Defendants often settle personal injury cases to: (1) avoid costly discovery and trial, and (2) achieve final peace. Resolution of potential Medicare reimbursement claims is part and parcel of any tort defendant's settlement analysis, but the reality is that tort defendants likely will not know—or even find out—whether any such reimbursement claims exist until the downstream actor asserts them by filing suit years after resolution.

After all, none of the settling parties will be aware of an MAO's arrangements with downstream actors. Settling tort plaintiffs may not even know whether they are insured through an MAO, believing instead that their medical expenses are covered generally through "Medicare." As a result of the Panel's decision, settlement will not buy a tort defendant final peace because downstream actors could materialize at any time to seek double recovery for alleged unpaid claims the parties never knew existed.

Indeed, a tort defendant will receive certainty only through a judgment in the personal injury litigation. The Panel's opinion thus incentivizes tort defendants to litigate cases vigorously to judgment. The end result is more litigation, less settlements, and less reimbursement to Medicare.

Defendants across a wide swath of industries will face this problem. Although insurance company defendants (like the appellees here) are

natural targets for these downstream actors, so is any defendant who is self-insured for personal injury claims. That scenario plays out as we speak. Downstream actors like the appellants here have filed dozens of cases in Eleventh Circuit courts against medical device/pharmaceutical manufacturers and even grocery stores. Not only has a litigation cottage industry sprung up from these kinds of cases, but the Panel's opinion will make it less likely *any* tort defendant will want to settle.

Before these consequences take root and this Circuit becomes the epicenter for endless tort litigation and related MSP Act litigation, DRI urges the Court to grant rehearing *en banc*.

IV
REHEARING *EN BANC* IS WARRANTED

In *Humana I,* a divided panel held that the MSP Act permitted a private MAO to bring a private cause of action against a tortfeasor's liability insurer to seek reimbursement for unpaid Medicare claims. *See* 832 F.2d at 1239. Judge Tjoflat, dissenting from the denial of rehearing *en banc*, sounded the alarm that the decision would have deleterious impact on a defendant's litigation conduct. *See Humana II*, 880 F.3d at 1284.

Judge Tjoflat explained that because a defendant "settles at its own

peril," it "must conduct a comprehensive investigation to ferret out the possibility" that these potential claims existed. *Id.* at 1298. That "means additional discovery time and effort" to ascertain the existence and scope of the defendant's potential liability under the MSP Act. *Id.* But it was "far from a foregone conclusion" that the existence of an MAO reimbursement claim "will be revealed during the course of litigation." *Id.* "Further, in a case in which an MAO is involved, the liability insurer simply will not settle unless" the MAO's claim is accounted for. *Id.*

Even where the defendant does its due diligence but "discovers nothing, it will still be on the hook if an MAO later comes calling"—indeed, given the prospect of independently recovering double damages, an MAO has every incentive to hide in the tall grass "and seek its double outlays later" in separately-filed lawsuits. *Id.* Thus, as Judge Tjoflat saw it, the *Humana I* majority's decision "significantly frustrate[d] the long-established public-policy goal of favoring compromise and settlement of civil claims in place of expensive, and here duplicative, litigation." *Id.* at 1287.

Judge Tjoflat's concerns are now magnified. Any insurer or self-insured tort defendant looking to resolve litigation must ferret out Medicare reimbursement claims in order to achieve final peace. But downstream actors—particularly those claiming recovery via assignments—do not necessarily issue

bills to patients or submit claims. Accordingly, there is no immediate paper trail obtainable through discovery that provides a tort defendant with notice of a potential Medicare reimbursement claim under the MSP Act from one of these entities. To get to the bottom of it, a tort defendant will have to embark on costly and protracted discovery into all Medicare billing, contracts and subcontracts. And because of the assignments like those at issue here, this discovery may not reveal what the defendant needs to identify potential claims.

At the same time, the prospect of double recovery gives downstream actors *zero* incentive to surface until they file independent actions seeking reimbursement. This holds particularly true when, as here, the downstream actor is a lawyer-created entity that demands reimbursement solely on the basis of assignments from other third-party entities.[1]

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[1] MSP Recovery is not a benevolent champion of the public fisc. It is essentially a collection agency that lines the pockets of its related companies and lawyers suing on assignments from anyone with a connection to the private MAO. *See MSP Recovery Claims, Series LLC v. Auto-Owners Ins. Co.*, --- F.3d ---, 2020 WL 5365978, at *1 (11th Cir. 2020) ("Plaintiffs are collection agencies that specialize in recovering funds on behalf of various actors in the Medicare Advantage system.").

District courts have criticized MSP Recovery for sharp practice, including misrepresenting its assignments. *See MSP Recovery Claims, Series LLC v. USAA Gen. Indem. Co.*, 2018 WL 5112998, at *10, *13 (S.D. Fla. Oct. 19, 2018) (plaintiff "has played fast and loose with facts, corporate entities, and adverse judicial rulings"); *MSP Recovery Claims, Series LLC v. Auto-Owners Ins. Co.*, 2018 WL 1953861, at *4-5 & n.9 (S.D. Fla. Apr. 25, 2018) (plaintiffs' counsel admonished to "remember its professional duty of candor to the Court to avoid future disciplinary issues"), *affirmed in part as modified*

Thus, a tort defendant will be left completely in the dark about its potential liability for double damages under the MSP Act—with no means to even identify and resolve such a claim—until a downstream actor, or its assignee, comes out of the woodwork and files suit.

But there is more. If the Panel's opinion stands, tort defendants should expect a full multiplicity of lawsuits from downstream actors motivated by the prospect of double recovery. To avoid this litigation, a tort defendant has two options in the underlying personal injury case. On the one hand, it could litigate vigorously to obtain a judgment that either: (1) absolves the defendant in full (meaning the defendant is not a primary payer and thus not responsible for Medicare reimbursement); or (2) specifies any amounts owed for medical expenses (thus allowing the defendant to ascertain any Medicare reimbursements required). On the other, the defendant could attempt to impose obligations on the tort plaintiff through settlement, such as an agreement that the plaintiff will bear the burden of ensuring claim reimbursement or indemnify the defendant for MSP Act double recoveries if those efforts fall short—even while recognizing that settling tort plaintiffs would unlikely have the resources to allow them to make good on indemnification promises.

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and vacated in part, *MSP Recovery Claims, Series LLC v. Auto-Owners Ins. Co.* ---F.3d---, 2020 WL 5365978 (11th Cir. 2020).

Neither option is palatable. Forcing litigation to the bitter end is a costly endeavor for parties and courts and is antithetical to the policy favoring early resolution of lawsuits. Requiring a tort plaintiff to take responsibility for an incalculable amount of MSP Act claims undoubtedly will spike the cost of resolving the case, making resolution less likely. Even if the parties settled, an action to enforce the indemnity provision in a settlement agreement also is costly and burdensome. Where the only certainties are increased litigation and decreased settlement, reimbursements to Medicare decrease and nobody wins—not the tort plaintiff, not the tort defendant, and certainly not the court system.

These repercussions are amplified in mass tort litigation, which involves thousands of personal injury claims. Already, "[c]omplex litigation … can occupy a court's docket for years on end, depleting the resources of the parties and the taxpayers while rendering meaningful relief increasingly elusive." *In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992). "Public policy favors the pretrial settlement" of class actions and mass torts. *Id.* But for the reasons discussed, the Panel's opinion makes the adjudication of mass torts far more complicated and burdensome, and resolution much less likely.

Finally, these repercussions are not limited to the insurance context. Any defendant in any industry that self-insures against personal injury

claims is a potential target for downstream actors. For instance, medical device manufacturers are embroiled in MSP Act lawsuits brought by assignees of downstream actors like the lawyer-driven entities in these appeals; even beloved grocery chain Publix has found itself in the crosshairs. (*See* Appendix A attached hereto.) With its expansive interpretation of the MSP Act, the Panel's opinion has cemented this Circuit's status as home field for MSP Act lawsuits and now for endless underlying tort litigation. *See MSP Recovery Claims, Series LLC v. Boston Scientific Corp.*, 2019 WL 180125, at *2 (S.D. Fla. Jan. 9, 2019) (Judge Ungaro "and her colleagues are well aware of the numerous MSP Act cases with which Plaintiffs have clogged this District" and threatening sanctions).

The Panel's opinion makes it exceedingly difficult for parties to resolve tort cases or obtain final peace. The only certain result is less settlement, more litigation, burgeoning court dockets, delay of reimbursement to Medicare, and depletion of party and court resources.

V
CONCLUSION

For these reasons, DRI respectfully urges the Court to grant rehearing *en banc*.

DATED this the 2nd day of October, 2020.

DRI, Inc.

REED SMITH LLP

/s/ *Lisa M. Baird*
Lisa M. Baird

Counsel for *Amicus Curiae* DRI, Inc

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT, TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS

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(s)/s/ Lisa M. Baird

Attorney for Amicus Curiae DRI, Inc.

Dated: October 2, 2020

APPENDIX A

Grocery/Retail

MSP Recovery Claims Series LLC v. Publix Super Markets, Inc., No. 8:18-cv-023011-MSS-SPF (M.D. Fla.);

Medical Devices

MSP Recovery Claims, Series LLC v. ALR, No. 19-11059 (11th Cir.) (closed);

MSP Recovery Claims, Series LLC v.Med. Device Bus. Services, Inc., No. 1:19-cv-22198-MGC (S.D. Fla.) (transferred to the N.D. Ohio re: MDL 2197);

MSP Recovery Claims, Series LLC v. Johnson & Johnson, No. 1:19-cv-00650-RWS (N.D. Ga.);

MSP Recovery Claims, Series LLC v. Johnson & Johnson, No. 1:18-cv-24695-KMW (S.D. Fla.) (remanded);

MSP Recovery Claims, Series LLC v. Bayer Healthcare Pharm., Inc., No. 1:18-cv-24625-RNS (S.D. Fla.);

*MSP Recovery Claims, Series LLC v. Coloplas*t, No. 1:18-cv-24582 (S.D. Fla.) (remanded to Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Johnson & Johnson, No. 1:18-cv-24580-RNS (S.D. Fla.) (to the Northern District of Georgia re: MDL 2782);

MSP Recovery Claims, Series LLC v. Am. Med. Sys., LLC, No. 18-cv-24497 (S.D. Fla.) (remanded);

MSP Recovery Claims, Series LLC v. Med. Device Bus. Servs., Inc., No. 1:18-cv-24493-MGC (S.D. Fla.);

MSP Recovery Claims, Series LLC v. Med. Device Bus. Servs., Inc., No. 1:18-cv-24247-DPG (S.D. Fla.);

MSP Recovery Claims, Series LLC v. Cook, Inc., No. 1:18-cv-24309-KMW (S.D. Fla.) (remanded to Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Davol Inc., No. 1:18-cv-24246-RNS (S.D. Fla.);

MSP Recovery Claims, Series LLC v. Davol Inc., No. 1:18-cv-24243-RNS (S.D. Fla.) (consolidated with 18-cv-24511-RNS);

MSP Recovery Claims, Series LLC v. Fresenius Med. Care Holdings, Inc. No. 1:18-cv-24249-DPG (S.D. Fla.) (the District of Massachusetts re: MDL 2428);

MSP Recovery Claims, Series LLC v. Jazz Pharm., Inc., No. 1:18-cv-24622-CMA (S.D. Fla.) (remanded);

MSP Recovery Claims, Series LLC v. Johnson & Johnson, No. 2018-041830-CA-01 (Fla. 11th Cir. Ct.);

*MSP Recovery Claims, Series LLC v. Coloplas*t, No. 2019-017355-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Wright Med. Grp., Inc., No. 2019-014688-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Smith & Nephew, Inc., No. 2019-014333-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Cordis Corp., No. 2019-001731-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Atrium Med. Corp., No. 2019-001538-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Rex Med., No. 2019-001141-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. ALN Int'l, Inc., No. 1:18-cv-24398-CMA (S.D. Fla.) (remanded to Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. ALN Int'l, Inc., No. 2018-032106-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Bos. Sci. Corp., No. 1:18-24546-UU (S.D. Fla.) (remanded to Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Bos. Sci. Corp., No. 2018-031053-CA-05 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Cook, Inc., No. 2018-031049-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Am. Med. Sys., LLC, No. 18-030982-CA-21 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Coloplast Corp., No. 2018-030920-CA-32 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Zimmer, Inc., No. 2018-030910-CA-30 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Zimmer, Inc., No. 2018-030903-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Biomet, Inc., No. 2018-030950-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. C.R. Bard, Inc., No. 1:18-24511-RNS (S.D. Fla.) (consolidated with 18-cv-24511-RNS);

MSP Recovery Claims, Series LLC v. C.R. Bard, Inc., No. 1:18-24248-RNS (S.D. Fla.) (consolidated with 18-cv-24511-RNS);

MSP Recovery Claims, Series LLC v. C.R. Bard, Inc., No. 2018-030774-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. C.R. Bard, Inc., No. 2018-030350-CA-01 (Fla. 11th Cir. Ct.) (closed);

MSP Recovery Claims, Series LLC v. Davol, Inc., No. 2018-030733-CA-01 (Fla. 11th Cir. Ct.) (closed following removal to federal court);

MSP Recovery Claims, Series LLC v. Howmedica Osteonics Corp., No. 1:18-cv-24448 (S.D. Fla.) (transferred to District of Minnesota re: MDL 2441);

MSP Recovery Claims, Series LLC v. Howmedica Osteonics Corp., No. 2018-030894-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Howmedica Osteonics Corp., No. 2018-030695-CA-01 (Fla. 11th Cir. Ct.);

MSPA Claims 1, LLC v. United Therapeutics Corp., No. 1:18-cv-24398-CMA (S.D. Fla.) (voluntarily dismissed);

MSP Recovery Claims, Series LLC v. Howmedica Osteonics Corp., No. 2017-025620-CA-01 (Fla. 11th Cir. Ct.) (voluntarily dismissed);

MSP Recovery Claims, Series LLC v. Johnson & Johnson, No. 2018-029626-CA-01 (Fla. 11th Cir. Ct.) (closed);

MSP Recovery Claims, Series LLC v. Alere, No. 2018-030390-CA-01 (Fla. 11th Cir. Ct.);

Pharmaceuticals

MSP Recovery Claims, Series LLC v. Amgen, Inc., No. 1:20-cv-20549-FAM (S.D. Fla.) (transferred to the District of Delaware re: MDL 2895);

MSP Recovery Claims, Series LLC v. Bausch Health Co., Inc., No. 1:20-cv-24657-RLR (S.D. Fla.) (transferred to N.D. Cal. 3:20-cv-01587);

MSP Recovery Claims, Series LLC v. Lundbeck LLC, No. 1:18-cv-24635-PCH (S.D. Fla.);

MSP Recovery Claims, Series LLC v. Bayer Healthcare Pharm., Inc., No. 1:18-cv-24625 (S.D. Fla.) (transferred to the D. Minnesota re: MDL 2642);

MSP Recovery Claims, Series LLC v. Pfizer Inc., No. 1:18-cv-24488-UU (S.D. Fla.) (voluntarily dismissed);

MSP Recovery Claims, Series LLC v. Pfizer Inc., No. 1:18-cv-23767-UU (S.D. Fla.) (to the D. N.J. re: MDL 2332);

MSP Recovery Claims, Series LLC v. United Therapeutics Corp., No. 1:18-cv-24398-CMA (S.D. Fla.) (voluntarily dismissed);

MSP Recovery Claims, Series LLC v. Boehringer Ingelheim Pharm., Inc., No. 1:18-cv-20757-KMW (S.D. Fla.) (dismissed);

MSP Recovery Claims, Series LLC v. Johnson & Johnson, No. 2018-032059-CA-01 (Fla. 11th Cir. Ct.) (closed);

MSP Recovery Claims, Series LLC v. Bayer Healthcare Pharm., Inc., No. 2018-032015-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Eli Lilly & Co., No. 2018-031983-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Merck Sharpe & Dohme Corp., No. 2018-031855-CA-01 (Fla. 11th Cir. Ct.);

MSP Recovery Claims, Series LLC v. Pfizer Inc., No. 2018-030885-CA-01 (Fla. 11th Cir. Ct.).

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2020, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. I further certify that some of the participants in the case are not CM/ECF users. I have provided full and complete copies of the foregoing documents to the non-CM/ECF participants using the following method and at the following address(es):

X	mailed the foregoing document(s) by First Class Mail, postage prepaid, and
	electronically sent the foregoing document(s) to the email address(es) listed below:

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