

**IN THE SUPREME COURT OF PENNSYLVANIA**

---

DOCKET NO. 7 EAP 2019

---

PATRICIA L. HAMMONS,  
Plaintiff-Appellee,

v.

ETHICON, INC.; JOHNSON & JOHNSON CO.; GYNECARE; SECANT  
MEDICAL; SECANT MEDICAL, INC.; PRODESCO, INC.; and SECANT  
MEDICAL LLC,

Defendants.

APPEAL OF DEFENDANTS: ETHICON, INC. AND JOHNSON & JOHNSON, CO.,  
Appellants.

---

**BRIEF OF THE PENNSYLVANIA ASSOCIATION FOR JUSTICE AND  
THE AMERICAN ASSOCIATION FOR JUSTICE AS *AMICI CURIAE* IN  
SUPPORT OF APPELLEE**

---

On Appeal from the Order of the Superior Court dated June 19, 2018 at  
Nos. 1522 EDA 2016 and 1526 EDA 2016 (published at 190 A.3d 1248),  
Reargument denied August 29, 2018, Affirming the Judgment of the Court of  
Common Pleas of Philadelphia County, Civil Division, in favor of Plaintiff-  
Appellee, entered April 14, 2016 at May Term 2013, No. 03913 and Entering  
Judgment in Favor of Plaintiff-Appellee Patricia Hammons

---

David S. Senoff, Esquire  
**FIRST LAW STRATEGY GROUP, LLC**  
121 S. Broad Street, Suite 300  
Philadelphia, PA 19107  
(215) 258-4700

*Counsel for Amicus Curiae,  
The Pennsylvania Association for Justice*

Bruce H. Stern, Esquire  
*President*  
**AMERICAN ASSOCIATION FOR JUSTICE**  
777 Sixth Street, NW, Suite 200  
Washington, D.C. 20001  
(202) 944-2810

*Counsel for Amicus Curiae,  
The American Association for Justice*

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES ..... ii

I. STATEMENT OF INTEREST ..... 1

II. INTRODUCTION ..... 2

III. ARGUMENT..... 3

    A. Standard of Review ..... 5

    B. Pennsylvania’s Statutory Long Arm Rationale..... 8

    C. The Superior Court Committed No Error of Law Nor Does its  
    Unanimous Decision Conflict with Established Protocol ..... 13

    D. The Invidious Arguments of the *Amici Curiae* Supporting  
    Appellants ..... 17

III. CONCLUSION..... 30

CERTIFICATE OF WORD COUNT

CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

CERTIFICATE OF SERVICE

## TABLE OF AUTHORITIES

### CASES:

<i>Biel v. Herman Lowenstein, Inc.</i> , 411 Pa. 559 (1963).....	7
<i>Bristol-Myers Squibb Co. v. Superior Court</i> , 137 S. Ct. 1773 (2017).....	<i>passim</i>
<i>De Lage Landen Fin. Servs., Inc. v. Urban P’ship, LLC</i> , 903 A.2d 586 (Pa. Super. 2006).....	6
<i>Delaware Valley Underwriting v. Williams &amp; Sapp</i> , 518 A.2d 1283 .....	7
<i>Goodyear Dunlop Tires Operations, S.A. v. Brown</i> , 564 U.S. 915 (2011) .....	11
<i>Hammons v. Ethicon, Inc.</i> , 190 A.3d 1248 (Pa. Super. 2018) .....	<i>passim</i>
<i>Hovatter v. CSX Transportation, Inc.</i> , 2018 Pa. Super. LEXIS 507 (Pa. Super. May 16, 2018).....	23, 24
<i>In re M.P.</i> , 204 A.3d 976 (Pa. Super. 2019) .....	5
<i>In re Petition for Referendum to Amend Home Rule Charter</i> , 450 A.2d 802 (1982).....	18
<i>Kenny v. Alexson Equipment Co.</i> , 495 Pa. 107 (1981) .....	5
<i>Kubik v. Letteri</i> , 532 Pa. 10 (1992) .....	4

<i>Lox, Stock &amp; Bagels, Inc. v. Kotten Machine Co. of California, Inc.</i> , 394 A.2d 954 (1978).....	7
<i>Mitchell v. Shikora</i> 209 A.3d 307 (2019) .....	18, 24, 26
<i>Moses v. T.N.T. Red Star Exp.</i> , 725 A.2d 792 (Pa. Super. 1999) .....	5
<i>Schmitt v. Seaspray-Sharkline, Inc.</i> , 531 A.2d 801 (1987).....	7
<i>Scoggins v. Scoggins</i> , 555 A.2d 1314 (Pa. Super. 1989) .....	7

## **CONSTITUTIONAL PROVISIONS AND STATUTES**

42 Pa.C.S. § 502.....	21
42 Pa.C.S. § 5321.....	8
42 Pa.C.S. § 5322.....	<i>passim</i>
Pa. R. App. P. 531(a).....	17
Pennsylvania Constitution, Art. V; §10(c) .....	25

## **OTHER AUTHORITIES**

ATRA’s IRS form 990 available at <a href="https://tinyurl.com/y5wuu5bk">https://tinyurl.com/y5wuu5bk</a> .....	20
ATRA’s IRS form 990 at Schedule R available at <a href="https://tinyurl.com/y5djhh6o">https://tinyurl.com/y5djhh6o</a> ....	20
BLACK’S LAW DICTIONARY 75 (5th ed. 1979) .....	18

Sir Francis Bacon, *The Essayes or Counsels, Civill and Morall*, 168  
(Michael Kiernan ed. 1985) .....19, 30

2014-2015 Judicial Hell Hole Report, available at:  
<http://www.judicialhellholes.org/wp-content/uploads/2014/12/JudicialHellholes-2014.pdf> .....21

2017-2018 Judicial Hellhole Report available at  
<http://www.judicialhellholes.org/wp-content/uploads/2017/12/judicial-hellholes-report-2017-2018.pdf>.....20

2018-2019 Judicial Hellhole Report available at:  
<http://www.judicialhellholes.org/wp-content/uploads/2018/11/judicial-hellholes-report-2018-2019.pdf>.....20, 22, 23

*The U.S. Supreme Court’s Personal Jurisdiction Paradigm Shift to End Litigation Tourism*,  
14 Duke J. Const. L. & Pub. Pol’y 51 (2019) .....24

*Litigation Tourism In Pennsylvania: Is Venue Reform Needed?*,  
22 Widener L.J. 29 (2012) .....25

WILLIAM SHAKESPEARE, *MACBETH*, act 5, sc. 5 .....27

September 17, 2017 Press Release of the U.S. Chamber of Commerce’s Institute  
for Legal Reform, available on the internet at: <https://tinyurl.com/yxrju7b7>...27, 28

## I. STATEMENT OF INTEREST

The Pennsylvania Association for Justice (“PAJ”) is a non-profit organization with a membership of 2,500 men and women of the trial bar of the Commonwealth of Pennsylvania. For over 50 years, PAJ has promoted the rights of individual citizens by advocating unfettered right to trial by jury, full and just compensation for innocent victims, and the maintenance of a free and independent judiciary – both federal and state. The organization opposes, in any format, special privileges for any individual, group or entity. Through its *Amicus Curiae* Committee, PAJ strives to maintain a high profile in the Courts of the Commonwealth by promoting through advocacy the rights of individuals and the goals of its membership. In this respect, PAJ has an abiding and immediate interest in the development of objectively sound case law under Pennsylvania’s “Long Arm Statute,” 42 Pa. C.S. § 5322.

The American Association for Justice (“AAJ”) is a voluntary national bar association whose trial lawyer members practice in every state, including Pennsylvania. AAJ was founded in 1946 to safeguard access to the courts for workers and consumers to seek legal recourse when they have been wrongfully injured. AAJ appears in support of Plaintiff-Appellee as it believes the lower court

properly construed Pennsylvania law as well as the federal constitutional due process concerns related to the exercise of Pennsylvania’s Long Arm Statute and that any contrary interpretation of the interplay between the two will necessarily deprive injured victims and their families of a proper forum provided by law, thereby closing another (jurisdictionally proper) courthouse’s doors for the redress of their injuries as provided by the law.

No one other than the *amici curiae*, their members or counsel, paid for the preparation of or authored, in whole or in part, this *amici curiae* brief.

## II. INTRODUCTION

PAJ and AAJ respectfully support Plaintiff-Appellee Patricia Hammons’ (“Ms. Hammons”), efforts to affirm the unanimous published Superior Court decision in this case. *Hammons v. Ethicon, Inc.*, 190 A.3d 1248 (Pa. Super. 2018) *reargument denied* (without reported decision) at 2018 Pa. Super. LEXIS 945 (Aug. 29, 2018), affirming the judgment of the Court of Common Pleas of Philadelphia County in favor of Ms. Hammons and against Defendant-Appellant Ethicon (“Ethicon”). That judgment was entered on May 12, 2016 after a three-week trial by jury, which resulted in a verdict for Ms. Hammons and against Ethicon awarding compensatory damages to her in the amount of \$5.5 million plus an additional \$7 million in punitive damages.

After post-trial motions practice was concluded, delay damages were assessed upon only the compensatory portion of the verdict resulting in an award totaling \$12,850,945.18 (representing compensatory, punitive and delay damages).

On April 10, 2019, this Court granted the Petition for Allowance of Appeal from the June 19, 2018 Order of the Superior Court affirming the judgment of the trial court. 206 A.3d 495. Nevertheless, this Court limited its grant of allocatur to one issue as stated by Petitioner:

Whether the Due Process Clause of the Fourteenth Amendment to the United States Constitution and 42 Pa.C.S. § 5322(c) precludes Pennsylvania from asserting personal jurisdiction over two New Jersey companies in a case brought by an Indiana resident asserting claims under the Indiana Product Liability Act.

*Id.* The parties' and their *amici* timely briefing followed.<sup>1</sup>

### III. ARGUMENT

Since the 2017 decision of the Supreme Court of the United States in *Bristol-Myers Squibb Co. v. Superior Court*, \_\_\_ U.S. \_\_\_, 137 S. Ct. 1773 (2017) (“*BMS*”), there has been much ink spilled and argument made about the sweeping changes to

---

<sup>1</sup> Because the certified question on appeal does not relate to the issue of “general jurisdiction,” no argument related to that issue is presented herein.

the various state courts' personal jurisdiction over defendants who were not otherwise subject to the general jurisdiction of a particular state court. *BMS* had no such sweeping effect because the decision did not invalidate the long-arm statutes of the 50 states. What the Court's *BMS* decision did do was to further clarify and demarcate the outer boundaries of what Pennsylvania's Long Arm Statue refers to as the exercise of jurisdiction by the Courts of this Commonwealth ". . . to the fullest extent allowed under the Constitution of the United States and may be based on the most minimum contact with this Commonwealth allowed under the Constitution of the United States." *See* 42 Pa. C.S. § 5322(b). In the final analysis, the *BMS* decision does nothing more than refine what the long arm statute envisaged by the phrase "the fullest extent allowed under the Constitution of the United States."<sup>2</sup>

The notion that the courts of this Commonwealth scrutinize questions of personal jurisdiction over out-of-state defendants by analyzing both the Pennsylvania Long Arm Statue and the Due Process Clause of the Fourteenth Amendment to the United States Constitution is certainly neither a new nor novel

---

<sup>2</sup>Indeed, contrary to the hysterical rhetoric of Appellants and their *amici*, the *BMS* decision, which did not involve an interpretation of any Pennsylvania statute or any Pennsylvania jurisprudence, could, therefore, **not** have had the effect of reinterpreting Pennsylvania law.

theory. *See Kubik v. Letteri*, 532 Pa. 10, 14 (1992) (“The question of whether a state may exercise *in personam* jurisdiction over a non-resident defendant must be tested against both the state’s long-arm statute and the Due Process Clause of the Fourteenth Amendment to the United States Constitution.”); *Kenny v. Alexson Equipment Co.*, 495 Pa. 107, 117 (1981) (same).

**A. Standard Of Review**

There can be no serious challenge to the fact that the Pennsylvania Superior Court, as an intermediate appellate court, is a court of error correction. *See In re M.P.*, 204 A.3d 976, 986 (Pa. Super. 2019), *quoting Com. v. Montini*, 712 A.2d 761, 769, (Pa. Super. 1998). As such “. . . it is not the prerogative of an intermediate appellate court to enunciate new precepts of law or to expand existing legal doctrines. Such is a province reserved to the Supreme Court.” *Id.*, *quoting Moses v. T.N.T. Red Star Exp.*, 725 A.2d 792, 801 (Pa. Super. 1999).

Somehow Appellants and their *amici* have taken the unanimous opinion of the Superior Court below to task for its uniform, rote application of the black letter standard of review to be applied by the Superior Court when reviewing (as here) a trial court’s order overruling preliminary objections, *to wit*:

The trial court applies the following standards to preliminary objections asserting lack of personal jurisdiction:

When preliminary objections, if sustained, would result in the dismissal of an action, such objections should be sustained only in cases which are clear and free from doubt. Moreover, when deciding a motion to dismiss for lack of personal jurisdiction the court must consider the evidence in the light most favorable to the non-moving party. A defendant making a challenge to the court's personal jurisdiction has, as the moving party, the burden of supporting its objection to jurisdiction.

*De Lage Landen Fin. Servs., Inc. v. Urban P'ship, LLC*, 2006 PA Super 169, 903 A.2d 586, 589 (Pa. Super. 2006) (citation omitted). "Our standard of review of an order of the trial court overruling . . . preliminary objections is to determine whether the trial court committed an error of law. [Furthermore], the appellate court must apply the same standard as the trial court." *Id.*

*Hammons v. Ethicon, Inc.*, 190 A.3d 1248, 1261 (Pa. Super. 2018).

The Superior Court in the *De Lage Landen* case went on to quite correctly observe:

Of particular significance in the instant case, is the rule that the mere allegation in preliminary objections that there is a lack of *in personam* jurisdiction over a defendant does not place a burden on the plaintiff to negate such allegations. When a defendant challenges the court's assertion of personal jurisdiction, that defendant bears the burden of supporting such objections to jurisdiction by presenting evidence. *Holt Hauling and Warehousing Systems, Inc. v. Aronow Roofing Co.*, 309 Pa. Super. 158, 454 A.2d

1131 (1983). [Footnote: The burden of proof only shifts to the plaintiff after the defendant has presented affidavits or other evidence in support of its preliminary objections challenging jurisdiction.] In *Holt Hauling*, our court instructed that when a fact issue is raised by preliminary objections regarding *in personam* jurisdiction, the court is to take evidence and may not reach a determination based upon controverted facts, even if the parties fail to provide such evidence themselves.

*Gall v. Hammer*, 420 Pa. Super. 512, 617 A.2d 23, 24 (Pa. Super. 1992).

*Id.* Accordingly, the standard for evaluating and procedure applicable to the determination by a trial court if it possesses personal jurisdiction over an out-of-state defendant is not some constitutionally defective process, it is the process that has been followed and approved by the courts in this Commonwealth, including this Court since “at least 1963.” See Brief of Appellants at 5 citing *Biel v. Herman Lowenstein, Inc.*, 411 Pa. 559, 563 (1963) (“It is only when the jurisdictional issue is properly raised that the burden of proof is upon the party asserting the jurisdiction.”).<sup>3</sup> Therefore, it is only when a jurisdictional issue is properly raised

---

<sup>3</sup> “When a defendant wishes to challenge the court’s exercise of *in personam* jurisdiction, he may do so by filing preliminary objections. *Lox, Stock & Bagels, Inc. v. Kotten Machine Co. of California, Inc.*, 261 Pa. Super. 84, 87, 395 A.2d 954, 955 (1978). As the moving party, **the defendant**, has the burden of *supporting* its objections to the court’s jurisdiction. *Schmitt v. Seaspray-Sharkline, Inc.*, 366 Pa. Super. 528, 531, 531 A.2d 801, 803 (1987) (emphasis in original); *Delaware Valley Underwriting*

Continued on following page

that the burden of proof shifts to the party who asserted that the trial court possessed jurisdiction. *Id.*

Of course, that raises the question: when is a personal jurisdictional issue properly raised and supported, such that the burden of proof shifts to the Plaintiff, in this case Ms. Hammons, to establish the personal jurisdiction of Defendants-Appellants?

### **B. Pennsylvania’s Statutory Long Arm Rationale**

The unanimous Superior Court’s decision in *Hammons* properly stated the rule of law governing the constitutionally acceptable exercise of Pennsylvania’s Long Arm Statute.<sup>4</sup> What is clear is that 42 Pa. C.S. § 5233(a) enumerates “ten paragraphs that specify particular types of contact with Pennsylvania deemed sufficient to warrant the exercise of specific jurisdiction.” *Id.* at 1261. In addition, § 5322(a) further itemizes 12 categories of conduct within the ten paragraphs which “acts” give rise to the exercise of personal jurisdiction by the courts of this

---

*v. Williams & Sapp*, supra, 518 A.2d at 1283 (emphasis added).” *Scoggins v. Scoggins*, 555 A.2d 1314, 1317 (Pa. Super. 1989) (bold emphasis added).

<sup>4</sup> It should be noted that Pennsylvania’s current formulation of its Long Arm Statute is neither novel nor unique. In fact, Pennsylvania’s statute, adopted in 1976, was adopted as part of and is titled: “Uniform Interstate and International Procedure Act.” 42 Pa. C.S. § 5321.

Commonwealth over non-resident persons, if those acts are committed “directly or by an agent, **as to a cause of action or other matter arising from such person[.]**” *Id.* (Emphasis added). Thus, any of the acts enumerated in § 5322(a), if committed by a non-resident defendant, will be enough for the exercise of personal jurisdiction by Pennsylvania Courts so long as those acts relate to a “cause of action or other matter” which arises out of one of the enumerated acts. *Id.*

Section 5322(b) makes clear that if a non-resident’s acts do not fall into one of the ten paragraphs detailed in section 5322(a), that Pennsylvania courts may still exercise personal jurisdiction over that entity: “to the fullest extent allowed under the Constitution of the United States and may be based on the most minimum contact with this Commonwealth allowed under the Constitution of the United States.” *Id.* As the *Hammons* court correctly and succinctly stated: “Section 5322(b) operates as a ‘catchall,’ providing that jurisdiction may be exercised over persons who do not fall within the express provisions of Section 5322(a) to the fullest extent permitted by the Due Process Clause of the United States Constitution.” *Id.* at 1261-62. Nevertheless, the Pennsylvania Long Arm Statute does not give unbridled authority to Pennsylvania Courts’ exercise of personal jurisdiction over non-resident defendants, instead the statute incorporates two explicit limitations.

First, Pennsylvania Courts may not exercise personal jurisdiction over non-resident defendants when such exercise would exceed the limits of the Due Process Clause of the United States Constitution. *Id.*; 42 Pa. C.S. § 5322(b). The second limitation (again recognized by the *Hammons* court), is found in section 5322(c) of the Long Arm Statute, limiting the exercise of personal jurisdiction by Pennsylvania courts over non-resident defendants to “causes of actions” or “other matters” related to the activities committed by the non-resident defendants in Pennsylvania. *Id.*; *Hammons*, 190 A.3d at 1262. Simply put, a Pennsylvania court cannot exercise personal jurisdiction over a non-resident defendant for acts which it commits in Pennsylvania, but for which the plaintiff does not complain. *Id.* (“ . . . the Plaintiff’s cause of action is limited to those activities that formed the basis of jurisdiction.”)

The United States constitutional limits on personal jurisdiction have been the subject of much debate but were clarified during the pendency of this case by the Supreme Court of the United States in the *BMS* case.

In *BMS*, Justice Alito, writing for the majority, reviewed the historical context of state court jurisdiction over out-of-state defendants including both the exercise of “general jurisdiction” (not applicable here) and “specific jurisdiction.” As Justice Alito reminded, and in doing so made clear, “general jurisdiction” is sometimes

called “all-purpose” jurisdiction while specific jurisdiction is sometimes called “case-linked” jurisdiction. *BMS*, 137 S. Ct. at 1779-80, *citing Goodyear Dunlop Tires Operations, S. A. v. Brown*, 564 U. S. 915, 919 (2011). The use of the phrase “case-linked jurisdiction” is appropriate here, because section 5322(c) of Pennsylvania’s Long Arm Statute is nothing more than the codification of the concept of “case-linked jurisdiction.” Justice Alito then provided a clear analytical framework for use as a tool in determining whether the exercise of “specific” “case-linked” jurisdiction by a state court over a non-resident defendant was constitutionally appropriate:

In order for a state court to exercise specific jurisdiction, “the suit” must “aris[e] out of or relat[e] to the defendant’s contacts with the forum.” *Id.*, at \_\_\_\_, 134 S. Ct. 746, 187 L. Ed. 2d 624, 633 (internal quotation marks omitted; emphasis added); see *Burger King Corp. v. Rudzewicz*, 471 U. S. 462, 472-473, 105 S. Ct. 2174, 85 L. Ed. 2d 528 (1985); *Helicopteros Nacionales de Colombia, S. A. v. Hall*, 466 U. S. 408, 414, 104 S. Ct. 1868, 80 L. Ed. 2d 404 (1984). In other words, there must be “an affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State’s regulation.” *Goodyear*, 564 U.S., at 919, 131 S. Ct. 2846, 180 L. Ed. 2d 796 (internal quotation marks and brackets omitted). For this reason, “specific jurisdiction is confined to adjudication of issues deriving from, or connected with, the very controversy that establishes jurisdiction.” *Ibid.* (internal quotation marks omitted).

*Id.* at 1780. The *BMS* Court concluded by easily summarizing the prior authorities for use by other courts and litigants as follows:

Our settled principles regarding specific jurisdiction control this case. **In order for a court to exercise specific jurisdiction over a claim, there must be an “affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State.”** *Goodyear*, 564 U. S., at 919, 131 S. Ct. 2846, 180 L. Ed. 2d 796 (internal quotation marks and brackets in original omitted). When there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant’s unconnected activities in the State. *See id.*, at 931, n. 6, 131 S. Ct. 2846, 180 L. Ed. 2d 796 (“[E]ven regularly occurring sales of a product in a State do not justify the exercise of jurisdiction over a claim unrelated to those sales”).

*Id.* at 1781. Accordingly, there is no difference between the *BMS* Court’s analysis and Pennsylvania’s statutory long arm framework found in 42 Pa. C.S. § 5322(c). *Cf. BMS*, 137 S. Ct. 1780-81 *with* 42 Pa. C.S. § 5322(c). In order for a Pennsylvania court to exercise personal (or “specific” or “case-linked”) jurisdiction over an out-of-state defendant, there must be an “affiliation” between the forum state and the underlying controversy. *Id.* Simply put, the acts committed by the out of state defendant in Pennsylvania must have an affiliation with acts complained of by Plaintiff.

**C. The Superior Court Committed No Error Of Law Nor Does Its Unanimous Decision Conflict With Established Precedent**

Drained of the use of words and phrases like “conflate,” “threatens,” and “manifest errors of law,” the arguments of Appellants and their *amici* amount to nothing more than a quarrel with the facts, not the law. What’s worse, the facts with which they quarrel are not facts produced by Ms. Hammons. They are the Defendants-Appellants’ own facts from their own witnesses. The Superior Court extensively reviewed the facts in this matter and concluded that personal jurisdiction was properly exercised over Defendants-Appellants and was satisfied that Defendants-Appellants’ due process rights had not been violated. *See Hammons*, 190 A.3d at 1263 – 65.

In *BMS* the Court set forth a three-part test to determine whether the exercise of specific jurisdiction by a state court over an out-of-state defendant was constitutionally appropriate. *Id.* at 1785-86. The Pennsylvania Superior Court in *Hammons* not only recognized that test, but purposefully and properly applied it. *Id.* at 1262-64. The *Hammons* court, in distinguishing this case from *BMS* found:

In short, what was needed—and what was missing—was suit-related conduct, i.e., a connection between the forum and the specific claims at issue, “principally, an activity or occurrence that takes place in the forum State. *Id.* at 1781. “[A]ll the conduct

giving rise to the nonresidents' claims occurred elsewhere.” *Id.* at 1782.

*Id.* at 1262-63. In evaluating this case, based on the facts presented by defendants themselves, the *Hammons* court concluded:

The connection between Ethicon and Pennsylvania is considerably stronger than the connection between Bristol-Myers and California. Ethicon supervised the design and manufacturing process of pelvic mesh in Pennsylvania in collaboration with Secant Medical, Inc., a Bucks County company. Ethicon also worked closely with an Allentown, Pennsylvania physician, Vincent Lucente, M.D., in developing Prolift. Both of these factors support the exercise of specific jurisdiction over Ethicon in Pennsylvania.

To elaborate, Hammons claims that she suffered bodily injuries due to the properties of the mesh that Ethicon used in its transvaginal mesh product, Prolift. She contends that Ethicon defectively designed and manufactured the mesh with polypropylene material that was toxic, dense and inelastic. Because of its defective design, she asserts, the mesh caused scar plating, erosion of mesh into her pelvic organs, and extensive personal injuries. The record illustrates that Ethicon worked together with Secant in Pennsylvania to design, test and manufacture the Prolift mesh.

*Id.* at 1263.

Without restating the full breadth of the facts enumerated by the Superior Court in its opinion, a few facts are simply so exceptional that they warrant specific recognition:

- Affidavits produced by Appellants themselves of three of their high-ranking officials confirm that 100% of the mesh which Ms. Hammons complains caused her injuries was manufactured in Pennsylvania by Defendant Secant, Inc. (a company headquartered in Bucks County, Pennsylvania) under the absolute control and to the specifications of Appellants. R.R. 266b – 278b.
- Deposition testimony of Appellants’ current and former employees similarly confirms that 100% of the mesh used in the product of which Ms. Hammons complains caused her injuries was manufactured here in Bucks County, Pennsylvania to Appellants’ specifications and under their control. R.R. 830c – 831c; 844c – 846c; 714c – 718c; 730c – 732c; 760c – 762c.
- Appellants and Defendant Secant, Inc. (a company headquartered in Bucks County, Pennsylvania) had applied for and received numerous patents from the United State Patent and Trademark Office and the World Intellectual Property Organization for the products which Ms. Hammons claims caused her personal injuries and for which she brought her lawsuit. R.R. 740c – 745c.

If these facts coupled with the facts specifically set forth in the *Hammons* decision do not establish “case-linked” jurisdiction, it is hard to fathom a set of facts that would support such jurisdiction. Where 100% of the product, in a product liability case, is manufactured in Pennsylvania to the strict specifications of and under the strict control of the out-of-state defendant, and where the out-of-state defendant and in-state defendant acknowledge this relationship and formalize it by jointly patenting the product both in the United States and internationally, it can hardly be a

“surprise” to Appellants that they would be sued in Pennsylvania for injuries caused by that product.

Putting any bewilderment of Appellants aside, as the Superior Court immediately recognized in this case: (1) Appellants purposefully directed their conduct into Pennsylvania by manufacturing 100% of the mesh product here under their supervision, direction and control; (2) Ms. Hammons’ claim in this case arises out of injuries from the mesh which was manufactured in Pennsylvania under the Appellants’ supervision, direction and control; and (3) there is no offense to traditional notions of fair play and substantial justice by exercising personal jurisdiction over Appellants in Pennsylvania. Appellants were not burdened by litigating this case in Pennsylvania and given that the manufacture of the allegedly defective product took place in Pennsylvania, the Commonwealth’s interest in adjudicating this case in its courts is high so as to dissuade the manufacture of defective products within its borders by companies who, while out of state, use separate entities headquartered in Pennsylvania to manufacture the defective products under their supervision, direction and control.

Unlike the factual situation in *BMS*, it can hardly be said that the Superior Court did not adequately identify a “link between the State and the nonresidents’

claims.” *Id.* at 1781. To the contrary, the Superior Court identified numerous links between the State and the nonresidents’ claims, not the least of which was that 100% of the product alleged to be defective was manufactured in Pennsylvania. While Appellants and their *amici* seize upon the *BMS* Court’s reminder that a defendant’s relationship with an in-state third party is insufficient to allow for specific jurisdiction, they forget that Justice Alito in *BMS* stated only that a defendant’s relationship with an in state third-party “standing alone” is insufficient for specific jurisdiction. *Id.* at 1781. What the *BMS* Court concluded was: “**What is needed—and what is missing here—is a connection between the forum and the specific claims at issue.**” *Id.* (Emphasis added). As discussed above, such a connection between Pennsylvania and the product liability claims of Ms. Hammons relating to the mesh product manufactured here under the supervision, direction and control of Appellants is most certainly **not** missing in this case.

#### **D. The Invidious Arguments of the *Amici Curiae* Supporting Appellants**

Pennsylvania Rule of Appellate Procedure 531(a) provides that an “*amicus curiae*” is a “non-party interested in the questions involved in any matter pending in an appellate court.” *Id.* The phrase “*amicus curiae*” literally means “friend of the

Court. *See In re Petition for Referendum to Amend Home Rule Charter*, 69 Pa. Commw. 292, 450 A.2d 802, 803 n.3 (1982) *quoting* BLACK’S LAW DICTIONARY 75 (5th ed. 1979).<sup>5</sup> The earliest references to that phrase pre-date the formation of this Court on May 22, 1722. Notwithstanding the age of the phrase, commentators from as long ago as 407 years to as recently as 65 short days ago, have sounded the clarion call and attempted to forewarn so-called “friends of the court” from imprudently relying “. . .for such advocacy **upon unduly caustic or inflammatory materials that insult or cast aspersions upon the judicial system itself, or upon its component parts.**” *Mitchell v. Shikora*, \_\_\_ Pa. \_\_\_, 209 A.3d 307, 325 (2019) (Wecht, J., concurring).<sup>6</sup>

---

<sup>5</sup>*See also* OED Online. June 2019. Oxford University Press. (available at <https://www.oed.com/view/Entry/6404?rskey=BmSkXk&result=1>) (last accessed Aug. 22, 2019), defining “amicus curiae, n.” as a: “friend of the court” or a “disinterested adviser.” *Id.*

<sup>6</sup> Justice Wecht fully concluded:

Finally, I note that an amicus brief submitted here in support of reversal (a reversal in which I concur) invoked a report labeling Philadelphia “The City of Unbrotherly Torts” and placing that city (and presumably the courts situate there) on a list of “Judicial Hellholes.” While amici, like parties, are free (and indeed duty-bound) to engage in zealous advocacy, it seems imprudent to rely for such advocacy upon unduly caustic or inflammatory materials that insult or cast aspersions upon the judicial system itself, or upon its component parts. Those filing briefs as friends of the court should consider this as they engage in their important work of informing and

Continued on following page

In addition to Justice Wecht, Sir Francis Bacon, the philosopher and statesman, but most significantly for these purposes, the first person in England to receive the Queen’s Counsel designation, who later served as the Solicitor General, Attorney General and thereafter the Lord Chancellor (previously the Lord High Chancellor) of England<sup>7</sup> commented in his noteworthy and influential 1612 essay titled, “Of Judicature” that: “The place of justice is an hallowed place; and therefore not only the bench but the foot-pace and precincts, and purprise thereof ought to be preserved without scandal and corruption;. . .”. Sir Francis Bacon, *The Essayes or Counsels, Civill and Morall*, 168 (Michael Kiernan ed. 1985). Later in the same paragraph of that essay, Bacon aptly commented about *amicus curiae* who quarrel with a court’s jurisdiction and stated:

The attendance of courts is subject to four bad instruments; . . .  
**the second sort is of those that engage courts in quarrels of jurisdiction, and are not truly “*amici curiae*,” but “*parasiti curiae*,” . . .**

---

enriching the perspectives available to appellate jurists as the latter perform their jurisprudential duties.

*Id.*, 209 A.3d at 325 (emphasis added; footnote omitted).

<sup>7</sup> Said designation is equivalent to the Chief Justice of the United States.

Continued on following page

*Id.*<sup>8</sup> So what do Justice Wecht’s comments in *Mitchell* and Sir Francis Bacon’s observations have in common with this case?

Simply put, one of the *amici* in this case is the American Tort Reform Association, is the publisher of the very “caustic” and “inflammatory” material known as the “Judicial Hellhole Report,”<sup>9</sup> to which Justice Wecht referred in *Mitchell*. In both the 2017-2018 and the 2018-2019 “Hellhole Reports,” the First Judicial District of Pennsylvania, the Court of Common Pleas of Philadelphia County ranked fifth and sixth respectively of “judicial hellholes” nationwide.<sup>10</sup>

---

<sup>8</sup>“*parasiti curiae*” literally translated means: parasite of the court. See <https://latin-dictionary.net/search/latin/amicus> and <https://latin-dictionary.net/search/latin/curiae> (last accessed Aug. 22, 2019).

<sup>9</sup>See 2018-2019 Judicial Hellhole Report available at: <http://www.judicialhellholes.org/wp-content/uploads/2018/11/judicial-hellholes-report-2018-2019.pdf> (last accessed Aug. 22, 2019) and 2017-2018 Judicial Hellhole Report available at <http://www.judicialhellholes.org/wp-content/uploads/2017/12/judicial-hellholes-report-2017-2018.pdf> (last accessed Aug. 22, 2019). In addition, while ATRA might claim that said report is published by the American Tort Reform Foundation, not ATRA, such is a distinction without a difference. First, all of the above cited reports clearly state that “Judicial Hellholes is a registered trademark of **ATRA** being used under license by ATRF.” *Id.* at i (emphasis added). Furthermore, ATRA’s IRS form 990 filed for the year ending December 31, 2017, lists one of the organization’s program service accomplishments “The “judicial hellholes” program”. See *amicus* ATRA’s IRS form 990 available at <https://tinyurl.com/y5wuu5bk> (las accessed Aug. 22, 2019). Finally, Schedule R to ATRA’s 2017 IRS form 990 identifies the ATRF as a “Related Tax Exempt Entity.” See *amicus* ATRA’s IRS form 990 at Schedule R available at <https://tinyurl.com/y5djhh6o> (last accessed Aug. 29, 2019).

<sup>10</sup> *Ibid.*

Continued on following page

Additionally, during that same time this Court, the Supreme Court of Pennsylvania, was named to *amicus* ATRA’s “Judicial Hellhole Watchlist.”<sup>11</sup> This Court, a court that has been in continuous operation since **before** the American Revolutionary War, reposed in which by statute is the supreme judicial power of the Commonwealth and the following (also granted by statute):

The Supreme Court shall have and exercise the powers vested in it by the Constitution of Pennsylvania, including the power generally to minister justice to all persons and to exercise the powers of the court, as fully and amply, to all intents and purposes, as the justices of the Court of King’s Bench, Common Pleas and Exchequer, at Westminster, or any of them, could or might do on May 22, 1722.

42 Pa. C.S. § 502, has been continuously named to *amicus* ATRA’s “Judicial Hellhole Watch List” since 2015, however prior to that this Court received a “Dishonorable Mention” on the “Watch List” in 2014.<sup>12</sup>

Recognizing both Bacon’s admonition that “friends of the court” who quarrel with the court’s jurisdiction are more likely “parasites of the court,” and recognizing

---

<sup>11</sup> *Ibid.*

<sup>12</sup> See 2014-2015 Judicial Hell Hole Report of *amicus* ATRA, available at: <http://www.judicialhellholes.org/wp-content/uploads/2014/12/JudicialHellholes-2014.pdf> (last accessed Aug. 22, 2019).

that all *amici* here are quarrelling with this Court’s jurisdiction, one is left with only a single inexorable conclusion. Furthermore, Justice Wecht has already advised that the use of *amici* ATRA’s publication to support *amicus* arguments is inappropriate and while none of the *amici* have resorted to actual quotations from those reports, some interesting language has found its way into their briefs, as exemplified below.

The first example of this “language creep” is found in the ATRA *amicus* brief urging this Court to “demagnetize” the First Judicial District of Pennsylvania by making it less attractive for tort litigation. “Demagnetize” seems like an unusual word for use by *amici* arguing about the bounds of specific jurisdiction under Pennsylvania’s Long Arm Statute and the due process clause of the United States Constitution. But not for ATRA. In its 2018-2019 Judicial Hellhole Report, ATRA stated that a “preliminary version” of an opinion of the Superior Court of Pennsylvania recognized that:

“courts in Philadelphia County are extremely congested” and have become a “magnet for tort suits” that have no connection to Pennsylvania.

See 2018-2019 Judicial Hellhole Report at 35.<sup>13</sup> Unfortunately for *amicus* ATRA that Superior Court opinion from which it quoted, *Hovatter v. CSX Transportation, Inc.*, was not a “preliminary version” of an opinion, it was an unpublished opinion which was later, by May 16, 2018 *per curiam* order of the Superior Court withdrawn and subsequently replaced by a July 13, 2018 published opinion of the Superior Court.<sup>14</sup> To make matters worse for all of the *amici* who signed on to ATRA’s brief, the use of the phrase that Philadelphia was a “magnet for tort suits” in the unpublished later withdrawn Superior Court Opinion, was not written by the Superior Court. To the contrary, that phrase was penned by counsel for appellants, CSX Transportation, Inc., and quoted by the Superior Court. See unpublished opinion of the Superior Court in *Hovatter v. CSX Transportation, Inc.*, at 11 quoting Brief of Appellants CSX at 30.<sup>15</sup>

---

<sup>13</sup>Available at <http://www.judicialhellholes.org/wp-content/uploads/2018/11/judicial-hellholes-report-2018-2019.pdf>, p. 35.

<sup>14</sup>*Cf. Hovatter v. CSX Transportation, Inc.*, 2018 Pa. Super. LEXIS 507 (Pa. Super. May 16, 2018) (per curiam Order withdrawing opinion dated April 27, 2018) *with Hovatter v. CSX Transportation, Inc.*, 193 A.3d 420 (Pa. Super. 2018).

<sup>15</sup>Available from a link in *amicus* ATRA’s 2018-2019 Judicial Hellhole Report at 35 <http://www.judicialhellholes.org/wp-content/uploads/2018/11/judicial-hellholes-report-2018-2019.pdf> at 35, and on the internet at <https://cases.justia.com/pennsylvania/superior-court/2018-3379-eda-2016.pdf?ts=1524864909> at 11. **(Perhaps not) coincidentally, counsel for**

Continued on following page

Continuing down the path of citing, not legal authority, but propaganda, the ATRA *amici* cite to a law review article published in June 2019, the same month as this Court’s decision and Justice Wecht’s concurrence in *Mitchell*, entitled: *The U.S. Supreme Court’s Personal Jurisdiction Paradigm Shift to End Litigation Tourism*, 14 Duke J. Const. L. & Pub. Pol’y 51 (2019). That article is co-authored by three members of the law firm (Shook, Hardy & Bacon L.L.P.) representing the ATRA *amici*, one of whom, Philip S. Goldberg, is one of the three lead counsel for the ATRA *amici* before this Court. In fact, a sentence from the ATRA *amicus* brief is taken almost verbatim from the Duke Journal article. *Cf.* 14 Duke J. Const. L. & Pub. Pol’y at 51-52 (sentence commencing with the words: “This attention to personal jurisdiction . . .”) *with* Brief of ATRA *amici* at 17 (sentence commencing with the words: “The U.S. Supreme Court’s attention to personal jurisdiction . . .”).

To make matters worse, the 2019 article cited above follows on from a litigation “tourism” article published in 2012 in the Widener Law Journal about

---

**Appellants CSX in the *Hovatter* matter are counsel in this case for amici The Chamber of Commerce of the United States, The Insurance Federation of Pennsylvania, Inc., and The Pennsylvania Chamber of Business and Industry.** *Cf.* 193 A.3d at 421 (identifying counsel) *with* Brief of *Amici* The Chamber of Commerce of the United States, *et al.* at cover page (identifying counsel).

“litigation tourism in Pennsylvania” entitled: *Litigation Tourism In Pennsylvania: Is Venue Reform Needed?*, 22 Widener L.J. 29 (2012). That article like, the Duke Journal article, is co-authored by two members of the law firm representing the ATRA *amici* (Shook, Hardy & Bacon L.L.P.), one of whom, Cary Silverman, is also one of the three lead counsel for the ATRA *amici* before this Court. It is the citation to this Widener Law Journal article, because it takes aim directly at the judicial power in this Commonwealth and its unified judicial system (by advocating in favor of changes to the venue rules, which charges are exclusively the province of this Court<sup>16</sup>), that is perhaps the most troubling. Specifically, the first paragraph of that article betrays a mistrust not only of Pennsylvania’s unified judicial system and its institutions, but of its citizens, its citizen-jurors, its elected judicial officers, and its local attorneys. *Id.* at 29 -30 (“Courts in any locale have a special interest in providing justice for their residents. **This advantage may be augmented if the trial court judge is elected and the defendant is an out-of-state corporation.**”) (Emphasis added; footnotes omitted).

---

<sup>16</sup>See Pennsylvania Constitution, Art. V; §10(c).

All of this, the ATRA *amici*'s use of language directly from the Judicial Hellhole Report, *amici*'s counsel self-citation to apparently "scholarly articles" echoing (in less incendiary terms) the Judicial Hellhole Reports, and the use of buzzwords like "forum shopping" and "litigation tourism" is nothing more than an educated attorney's code or euphemism for exactly the type of "unduly caustic or inflammatory materials that insult or cast aspersions upon the judicial system itself, or upon its component parts" that Justice Wecht rebuked *amici* for "invoking" in *Mitchell*. *Id.* 209 A.3d at 325.

The second, but by no means less inflammatory example of this "language creep" is found in the Brief of *amici* Product Liability Advisory Council, Inc., Pennsylvania Defense Institute, and Philadelphia Association of Defense Counsel. In their brief they state the following as a **legal** basis to overturn the Superior Court's unanimous decision in *Hammons*:

**Moreover, the Court should reverse because it is the right thing to do.** No valid jurisprudential reason exists for continuing to burden Philadelphia judges, jurors, and taxpayers with **the cost of being the nation's mass-tort Mecca.**

*Id.* at 27 (emphasis added). Preliminarily it is noted that as a legal argument, exhorting this Court to reverse the Superior Court’s unanimous decision below because it is the “right thing to do” is a legal nullity. To quote Shakespeare:

And then is heard no more: it is a tale  
Told by an idiot, full of sound and fury,  
Signifying nothing.

WILLIAM SHAKESPEARE, *MACBETH*, act 5, sc. 5.

Separately, the phrase at the end of the same paragraph of that brief *to wit*: “No valid jurisprudential reason exists for continuing to burden Philadelphia judges, jurors, and taxpayers with the cost of being the nation’s mass-tort Mecca[.]”, is nothing more than a creative repackaging of the September 12, 2017 press release issued by United States Chamber of Commerce’s Institute for Legal Reform (“ILR”) and the statement’s attributed to its then President, Lisa A. Rickard. The ILR’s press release reads in pertinent part:

“In many ways, Pennsylvania is the birthplace of the idea of an independent civil justice system,” said ILR President Lisa A. Rickard. **“But today, the state’s lawsuit climate is threatening the independence, credibility and integrity of its courts.”**

**In particular, Philadelphia is emerging as a “mass tort mecca,” and has a reputation for attracting out-of-state**

**lawsuits on prescription drugs, medical devices, and other cases.**

Pennsylvania's Supreme Court majority has also shifted toward allowing more questionable lawsuits since plaintiffs' bar-favored candidates filled three Court vacancies in 2015.

*See* September 17, 2017 Press Release of the U.S. Chamber of Commerce's Institute for Legal Reform, available on the internet at: <https://tinyurl.com/yxrju7b7> (last accessed on Aug. 22, 2019). In many ways the statements of ILR's President and their adoption by the Product Liability Advisory Council ("PLAC") *amici* are even worse than those of the ATRA *amici* and their "encoded messages." Here, ILR and the PLAC *amici* first challenge the notion that an independent judiciary exists in the First Judicial District of Pennsylvania. By the end of the statement, they presume that this Court by virtue of the election of Justices Donohue, Dougherty and Wecht in 2015 has "shifted toward allowing more questionable lawsuits[.]" *Id.*

Worse yet and the phrase quoted directly by the PLAC *amici* (without attribution to Ms. Rickard or ILR), is the idea that (two years ago in 2017) Philadelphia was emerging as a "mass tort mecca," and "has a reputation for attracting out-of-state lawsuits on prescription drugs, medical devices, and other cases." *See* Brief of PLAC *amici* at 27 and September 17, 2017 Press Release of ILR.

Of course, just like the use of words and phrases like “demagnetize” and “forum shopping” and “litigation tourism,” the use of the word mecca in this context has an equally and supremely coded meaning.<sup>17</sup> As a result, the argument of the PLAC *amici* amount to nothing more than a plea to reverse an unanimous published opinion of the Superior Court of Pennsylvania because: (1) “it is the right thing to do”; and (2) to relieve the “burden [on] Philadelphia judges, jurors, and taxpayers with the cost of being the nation’s mass-tort Mecca.” Without commenting on the veracity of or whether a mechanism exists to authenticate these statements, suffice to say, they are unrelated to the question certified in this case by this Court regarding Pennsylvania’s Long Arm Statute and therefore should not be accorded any persuasive value.

Despite Justice Wecht’s admonition only 65 days ago, the use of these “code words” and “phrases” are nothing more than dressed up references to those same “unduly caustic or inflammatory materials that insult or cast aspersions upon the

---

<sup>17</sup>See OED Online. June 2019. Oxford University Press. (available at <https://www.oed.com/view/Entry/115537?redirectedFrom=mecca#eid> (last accessed Aug. 22, 2019), defining “mecca, n.” as: “A place regarded as supremely sacred or valuable, or where a faith, policy, truth, etc., originates. Also more generally: a place which attracts people of a particular group or with a particular interest; a resort of (also for) a certain group of people. *Id.*

judicial system itself, or upon its component parts.” Materials which sadly, unfortunately but apparently continue to be used unabated by *amici* and their counsel. In the final analysis, these *amici*, their counsel and their briefs are the reason why Sir Francis Bacon referred to those people who “quarreled” with the court’s jurisdiction not as “friends of the court.” *See* Sir Francis Bacon, *The Essayes or Counsels, Civill and Morall*, 168 (Michael Kiernan ed. 1985).

### III. CONCLUSION

For all the reasons set forth above, the decision of the Superior Court should be affirmed together with the April 14, 2016 judgment of the Court of Common Pleas of Philadelphia County, Civil Division.

Respectfully submitted,

**FIRST LAW STRATEGY GROUP, LLC**



---

DAVID S. SENOFF, ESQUIRE

121 S. BROAD STREET, SUITE 300

PHILADELPHIA, PA 19107

(215) 258-4700

[DSENOFF@FIRSTLAWSTRATEGY.COM](mailto:DSENOFF@FIRSTLAWSTRATEGY.COM)

**AMERICAN ASSOCIATION FOR JUSTICE**



---

Bruce H. Stern, Esquire  
*President*  
777 Sixth Street, NW, Suite 200  
Washington, D.C. 20001  
(202) 944-2810

*Counsel for Amicus Curiae the American  
Association for Justice*

Dated: August 22, 2019

## CERTIFICATE OF WORD COUNT

I certify that this brief includes 6587 words as calculated with the word-counting feature of Microsoft Word 2016, excluding the materials specified in Pa.R.A.P. 2135(b).

FIRST LAW STRATEGY GROUP, LLC



---

DAVID S. SENOFF, ESQUIRE

121 S. BROAD STREET, SUITE 300

PHILADELPHIA, PA 19107

(215) 258-4700

[DSENOFF@FIRSTLAWSTRATEGY.COM](mailto:DSENOFF@FIRSTLAWSTRATEGY.COM)

Dated: August 22, 2019

**CERTIFICATE OF COMPLIANCE WITH  
PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

FIRST LAW STRATEGY GROUP, LLC



---

DAVID S. SENOFF, ESQUIRE

121 S. BROAD STREET, SUITE 300

PHILADELPHIA, PA 19107

(215) 258-4700

[DSENOFF@FIRSTLAWSTRATEGY.COM](mailto:DSENOFF@FIRSTLAWSTRATEGY.COM)

Dated: August 22, 2019

**IN THE SUPREME COURT OF PENNSYLVANIA**

Patricia L. Hammons : 7 EAP 2019  
v. :  
Ethicon, Inc. and Johnson & Johnson; Gynecare; :  
Secant Medical; Secant Medical Inc.; Prodesco, :  
Inc.; and Secant Medical, LLC

Appeal of: Ethicon, Inc. and Johnson & Johnson

**PROOF OF SERVICE**

I hereby certify that this 22nd day of August, 2019, I have served the attached document(s) to the persons on the date(s) and in the manner(s) stated below, which service satisfies the requirements of Pa.R.A.P. 121:

**Service**

Served: Charles Lyman Becker  
Service Method: Email  
Email: charles.becker@klinespecter.com  
Service Date: 8/22/2019  
Address:  
Phone: 215-772-1000  
Representing: Appellee Patricia L. Hammons

Served: Charles Lyman Becker  
Service Method: eService  
Email: charles.becker@klinespecter.com  
Service Date: 8/22/2019  
Address: Kline & Specter, P.C.  
1525 Locust Street, 19th Floor  
Philadelphia, PA 19102  
Phone: 215--77-2-1000  
Representing: Appellee Patricia L. Hammons

Served: Dorothy Alicia Hickok  
Service Method: Email  
Email: Alicia.Hickok@dbr.com  
Service Date: 8/22/2019  
Address:  
Phone: 215-988-2700  
Representing: Appellant Ethicon, Inc. and Johnson & Johnson

IN THE SUPREME COURT OF PENNSYLVANIA

**PROOF OF SERVICE**

*(Continued)*

Served: Dorothy Alicia Hickok  
Service Method: eService  
Email: alicia.hickok@dbr.com  
Service Date: 8/22/2019  
Address: 28 Linden Ave.  
Rutledge, PA 19070  
Phone: 215-988-3364  
Representing: Appellant Ethicon, Inc. and Johnson & Johnson

Served: Gynecare  
Service Method: Email  
Email: sbrody@omm.com  
Service Date: 8/22/2019  
Address:  
Phone: --  
Pro Se: Appellee Gynecare

Served: Julie A. Callsen  
Service Method: Email  
Email: julie.callsen@tuckerellis.com  
Service Date: 8/22/2019  
Address:  
Phone: 216-696-2286  
Representing: Appellant Ethicon, Inc. and Johnson & Johnson

Served: Kila Briget Fickes  
Service Method: Email  
Email: kila.baldwin@klinespecter.com  
Service Date: 8/22/2019  
Address:  
Phone: 215-772-1392  
Representing: Appellee Patricia L. Hammons

Served: Lee Barry Balefsky  
Service Method: Email  
Email: lee.balefsky@klinespecter.com  
Service Date: 8/22/2019  
Address:  
Phone: 215-772-0420  
Representing: Appellee Patricia L. Hammons

IN THE SUPREME COURT OF PENNSYLVANIA

**PROOF OF SERVICE**

*(Continued)*

Served: Lee Barry Balefsky  
Service Method: eService  
Email: danielle.serad@klinespecter.com  
Service Date: 8/22/2019  
Address: 861 Colony Road  
Bryn Mawr, PA 19010  
Phone: 610-662-4003  
Representing: Appellee Patricia L. Hammons

Served: Ruxandra Maniu Laidacker  
Service Method: Email  
Email: andra.laidacker@klinespecter.com  
Service Date: 8/22/2019  
Address:  
Phone: 215-772-1000  
Representing: Appellee Patricia L. Hammons

Served: Ruxandra Maniu Laidacker  
Service Method: eService  
Email: andra.laidacker@klinespecter.com  
Service Date: 8/22/2019  
Address: 1525 Locust St.  
Floor 19  
Philadelphia, PA 19102  
Phone: 215--77-2-1000  
Representing: Appellee Patricia L. Hammons

Served: Shanin Specter  
Service Method: Email  
Email: shanin.specter@klinespecter.com  
Service Date: 8/22/2019  
Address:  
Phone: 215-772-1000  
Representing: Appellee Patricia L. Hammons

Served: Stephen D. Brody  
Service Method: Email  
Email: sbrody@omm.com  
Service Date: 8/22/2019  
Address:  
Phone: 202-383-5167  
Representing: Appellant Ethicon, Inc. and Johnson & Johnson

**IN THE SUPREME COURT OF PENNSYLVANIA**

**PROOF OF SERVICE**

*(Continued)*

IN THE SUPREME COURT OF PENNSYLVANIA

**PROOF OF SERVICE**

*(Continued)*

**Courtesy Copy**

Served: Andrew Ronald Sperl  
Service Method: Email  
Email: arsperrl@duanemorris.com  
Service Date: 8/22/2019  
Address:  
Phone: 215-979-7385  
Representing: Appellant Amicus Curiae Chamber of Commerce of the United States of America  
Appellant Amicus Curiae The Insurance Federation of Pennsylvania, Inc.  
Appellant Amicus Curiae The Pennsylvania Chamber of Business and Industry

Served: Andrew Ronald Sperl  
Service Method: eService  
Email: arsperrl@duanemorris.com  
Service Date: 8/22/2019  
Address: 30 S. 17th Street  
Philadelphia, PA 19103  
Phone: 215--97-9-7385  
Representing: Appellant Amicus Curiae Chamber of Commerce of the United States of America  
Appellant Amicus Curiae The Insurance Federation of Pennsylvania, Inc.  
Appellant Amicus Curiae The Pennsylvania Chamber of Business and Industry

Served: Bruce Henry Stern  
Service Method: Email  
Email: bstern@stark-stark.com  
Service Date: 8/22/2019  
Address:  
Phone: 609-896-9060  
Representing: Amicus Curiae The American Association for Justice

IN THE SUPREME COURT OF PENNSYLVANIA

**PROOF OF SERVICE**

*(Continued)*

Served: Cary Silverman  
Service Method: Email  
Email: csilverman@shb.com  
Service Date: 8/22/2019  
Address:  
Phone: 202-783-8400  
Representing: Appellant Amicus Curiae American Tort Reform Association  
Appellant Amicus Curiae Coalition for Litigation Justice, Inc.  
Appellant Amicus Curiae National Association of Manufacturers  
Appellant Amicus Curiae Pennsylvania Coalition for Civil Justice Reform  
Appellant Amicus Curiae Pennsylvania Manufacturers' Association  
Appellant Amicus Curiae Pharmaceutical Research and Manufacturers of America

Served: James Michael Beck  
Service Method: Email  
Email: jmbeck@reedsmith.com  
Service Date: 8/22/2019  
Address:  
Phone: 215-851-8100  
Representing: Appellant Amicus Curiae Pennsylvania Defense Institute  
Appellant Amicus Curiae Philadelphia Association of Defense Counsel  
Appellant Amicus Curiae Product Liability Advisory Council, Inc.

Served: James Michael Beck  
Service Method: eService  
Email: jmbeck@reedsmith.com  
Service Date: 8/22/2019  
Address: 2500 One Liberty Place  
1650 Market Street  
Philadelphia, PA 19103  
Phone: 215--85-1-8168  
Representing: Appellant Amicus Curiae Pennsylvania Defense Institute  
Appellant Amicus Curiae Philadelphia Association of Defense Counsel  
Appellant Amicus Curiae Product Liability Advisory Council, Inc.

IN THE SUPREME COURT OF PENNSYLVANIA

**PROOF OF SERVICE**

*(Continued)*

Served: Joseph H. Blum  
Service Method: Email  
Email: jblum@shb.com  
Service Date: 8/22/2019  
Address:  
Phone: 215-575-3115  
Representing: Appellant Amicus Curiae American Tort Reform Association  
Appellant Amicus Curiae Coalition for Litigation Justice, Inc.  
Appellant Amicus Curiae National Association of Manufacturers  
Appellant Amicus Curiae Pennsylvania Coalition for Civil Justice Reform  
Appellant Amicus Curiae Pennsylvania Manufacturers' Association  
Appellant Amicus Curiae Pharmaceutical Research and Manufacturers of America

Served: Joseph H. Blum  
Service Method: eService  
Email: jblum@shb.com  
Service Date: 8/22/2019  
Address: Two Commerce Square  
2001 Market Street, Suite 3000  
Philadelphia, PA 19103  
Phone: 215--27-8-2555  
Representing: Appellant Amicus Curiae American Tort Reform Association  
Appellant Amicus Curiae Coalition for Litigation Justice, Inc.  
Appellant Amicus Curiae National Association of Manufacturers  
Appellant Amicus Curiae Pennsylvania Coalition for Civil Justice Reform  
Appellant Amicus Curiae Pennsylvania Manufacturers' Association  
Appellant Amicus Curiae Pharmaceutical Research and Manufacturers of America

Served: Michael James Ross  
Service Method: Email  
Email: michael.ross@klgates.com  
Service Date: 8/22/2019  
Address:  
Phone: 412-355-8926  
Representing: Appellant Amicus Curiae Washington Legal Foundation

IN THE SUPREME COURT OF PENNSYLVANIA

**PROOF OF SERVICE**

(Continued)

Served: Michael James Ross  
Service Method: eService  
Email: michael.ross@klgates.com  
Service Date: 8/22/2019  
Address: K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, PA 15222  
Phone: 412-355-6500  
Representing: Appellant Amicus Curiae Washington Legal Foundation

Served: Nicholas P. Vari  
Service Method: Email  
Email: nick.vari@klgates.com  
Service Date: 8/22/2019  
Address:  
Phone: 412-355-8365  
Representing: Appellant Amicus Curiae Washington Legal Foundation

Served: Nicholas P. Vari  
Service Method: eService  
Email: nick.vari@klgates.com  
Service Date: 8/22/2019  
Address: K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, PA 15222  
Phone: (41-2) -355-8365  
Representing: Appellant Amicus Curiae Washington Legal Foundation

Served: Philip S. Goldberg  
Service Method: Email  
Email: pgoldberg@shb.com  
Service Date: 8/22/2019  
Address:  
Phone: --  
Representing: Appellant Amicus Curiae American Tort Reform Association  
Appellant Amicus Curiae Coalition for Litigation Justice, Inc.  
Appellant Amicus Curiae National Association of Manufacturers  
Appellant Amicus Curiae Pennsylvania Coalition for Civil Justice Reform  
Appellant Amicus Curiae Pennsylvania Manufacturers' Association  
Appellant Amicus Curiae Pharmaceutical Research and Manufacturers of America

IN THE SUPREME COURT OF PENNSYLVANIA

**PROOF OF SERVICE**

*(Continued)*

Served: Robert L. Byer  
Service Method: Email  
Email: rlbyer@duanemorris.com  
Service Date: 8/22/2019  
Address:  
Phone: 412-497-1083  
Representing: Appellant Amicus Curiae Chamber of Commerce of the United States of America  
Appellant Amicus Curiae The Insurance Federation of Pennsylvania, Inc.  
Appellant Amicus Curiae The Pennsylvania Chamber of Business and Industry

Served: Robert L. Byer  
Service Method: eService  
Email: rlbyer@duanemorris.com  
Service Date: 8/22/2019  
Address: Duane Morris LLP  
600 Grant St., Ste. 5010  
Pittsburgh, PA 15219  
Phone: 412-49-7.1083  
Representing: Appellant Amicus Curiae Chamber of Commerce of the United States of America  
Appellant Amicus Curiae The Insurance Federation of Pennsylvania, Inc.  
Appellant Amicus Curiae The Pennsylvania Chamber of Business and Industry

/s/ David Samuel Senoff

*(Signature of Person Serving)*

Person Serving: Senoff, David Samuel  
Attorney Registration No: 065278  
Law Firm: First Law Strategy Group, LLC  
Address: First Law Strategy Group LLC  
121 S Broad St Ste 300  
Philadelphia, PA 19107  
Representing: Amicus Curiae The Pennsylvania Association for Justice