

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

MANUFACTURERS AND TRADERS
TRUST COMPANY

v.

MARY ANNE KIRGAN, ET AL.

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Civil No. – JFM-17-1228

MEMORANDUM

Plaintiff has filed a motion to dismiss pursuant to the first-to-file rule. The motion will be granted.

Defendants in this action, the Kirgans, filed an action in the Eastern District of Virginia on March 21, 2017. This action was not filed until May 4, 2017. The claims asserted by plaintiff in this action can and have been filed as counterclaims in the Virginia action.

In its opposition plaintiff asserts that the Virginia court lacks jurisdiction over the claims asserted by this action. In that regard it relies upon *Bristol-Myers Squibb Co. v. Superior Court of California*, 137 S.Ct. 1773 (2017). Plaintiff have filed a motion for reconsideration in the Eastern District of Virginia raising this issue, and it has stated that it will not waive the issue. I leave to Judge Hilton in the Eastern District to resolve the motion for reconsideration. If he grants the motion, plaintiff may move to reopen this action.

Date: July 14, 2017

J. Frederick Motz
United States District Judge

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DISTRICT OF MARYLAND
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