

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
ATTN: EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
C/O SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE

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September 3, 2013

VIA HAND DELIVERY

The Honorable Thomas A. Bedell
Circuit Judge of Harrison County
301 West Main Street, Room 321
Clarksburg, West Virginia 26301

Re: Perrine, et al. v. DuPont, et al.;
Civil Action No. 04-C-296-2 (Circuit Court of Harrison County, West Virginia)-
Report to the Court Respecting Second Round of Medical Monitoring Claimant
Participation Issues; Our File No. 4609-1 {GG-13}

Dear Judge Bedell:

Following-up on our discussion concerning this topic during the August 22, 2013 hearing on the Settlement Budget, below I describe the issues that we would like the Court to decide, with my requesting that the Settling Parties provide their written comments to the Court and the undersigned by Friday, September 6, 2013.

- A. Should the Claimants be informed of the number of soil and house properties that were found to have cadmium, arsenic or lead above safe levels and should the Medical Monitoring Claimants be informed of the results of Medical Monitoring testing, in terms of disease that has been detected?

During our interviews with the physicians, and also upon the undersigned's reflection, it was thought that a Medical Monitoring Claimant could make a more reasoned choice on whether to participate in the Program if he or she knows how contaminated the Class Area is based upon testing, and what portion of participating Medical Monitoring Claimants tested positive for disease.

Attached for the Court's review in Exhibit A is the proposed letter that would provide this information to the Medical Monitoring Claimants.

Exhibit A has been redacted. However, this information has already been gathered and is being provided to the Court and to Counsel for the Parties under seal.

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B. In notifying the Claimants who checked the "YES" box, indicating they wanted Medical Monitoring, should all approximately 4,000 Claimants be notified or only the ones who participated in the first round of testing?

In its October 21, 2011 Order Resolving Pending Medical Monitoring Program Issues in Preparation for November 1, 2011 Implementation Date (the "October 2011 Order"), the Court made the following decision concerning Claimants who did not participate in one round of testing:

The Medical Monitoring Plan is a right of a Claimant that cannot be waived, with such a waiver not being reflected anywhere in the Settlement Memorandum of Understanding ("MOU") or any related orders.

In the undersigned's opinion, the only way to implement the foregoing decision of the Court is to notify all Claimants who checked the "YES" box indicating that they want to participate in Medical Monitoring, for the second round of testing, and all subsequent rounds of testing.

C. Should the Medical Monitoring Claimants get a new Medical Monitoring Card?

CTIA, the Settlement's Third Party Administrator for Medical Monitoring, recommends that a new card be issued to the Medical Monitoring Claimants who checked the "YES" box, because the old card did not include the phone number of the local Spelter Claims Office, and the old card did not specifically state that Medical Monitoring is only for testing and not medical care.

Because of these deficiencies in the old card, it was much more difficult for Claimants to notify the Settlement if they had to reschedule an appointment, had a change of address or phone number, or otherwise had difficulties participating in the Program. A lack of a clear explanation about the scope of Medical Monitoring led to much Claimant confusion, and to doctors billing for services that the Program could not provide, and then trying to get the Claimant to pay the bill.

In the undersigned's opinion, a new card is therefore justified.

D. In notifying the Claimants of the Medical Monitoring Program, should there be one mail out or two?

CTIA, which administers medical programs around the country, recommends two mail outs, as being a more effective method.

The first mail out would be a newsletter indicating that Medical Monitoring is about to take place, and providing the Claimant with some information concerning the status of the Settlement, including the level of contamination found in the Class Area and the results of Medical Monitoring

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testing based upon the high percentage of Claimants who agreed to provide their data for scientific research. It would also provide an overview of what Medical Monitoring will provide and a list of the participating Medical Providers with their contact information.

The next correspondence would be to begin to set up an appointment for the Claimant to be tested under the Medical Monitoring Program.

There is an approximately \$2,500 cost difference in having two mail outs as opposed to one.

E. Should an initial screening medical interview form be prepared?

As indicated by the follow-up memorandum to the physicians in **Exhibit B**, which was prepared after CTIA and I met with the Participating Physicians in July in preparation for the second round of testing, the Medical Providers have requested this uniform screening interview form, in order to interview each Claimant with consistency. A draft of the form is in **Exhibit C**.

Based upon the input of the physicians, and the recommendations of CTIA, it is my recommendation that this form be used by the physicians, in their discretion. It would help ensure that all Claimants get the same level of medical screening, providing uniformity in the process.

F. What measures should be taken to schedule each Claimant for Medical Monitoring?

During the first round of testing, a three strikes and your out rule with respect to a two year testing cycle was agreed to by the Settling Parties during the May 15, 2012 Quarterly Medical Monitoring Meeting. This process includes sending three letters to a Claimant, with each letter being one month apart, and with the third letter asking the Claimant to contact CTIA within sixty (60) days if he or she wished to participate. After the sixty (60) day deadline has expired, a Claimant then wishing to participate in the Program would be allowed to do so for good cause. It was also decided that even if a Claimant does not participate in the Program in one 2 year testing cycle, the Claimant would be invited to participate in subsequent testing cycles.

Because Medical Monitoring is a right that cannot be waived, so that, in the undersigned's opinion, a Claimant's not participating in the first round of Medical Monitoring should not infringe the right in any manner, it is recommended that the same notice process followed in the first round of testing be used in the second round of testing.

Your Honor, many thanks for your consideration of these issues. We received the preliminary objections from DuPont in **Exhibit D** and DuPont reserves the right to supplement them by the suggested Friday deadline in a formal filing with the Court. After the Parties provide their comments by Friday, September 6, 2013, the undersigned will prepare a proposed Order, with

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alternative decisions for the Court's consideration on each topic, based upon the comments received from the Settling Parties. Of course, the proposed Order will be vetted with Counsel for the Settling Parties before its submission to the Court.

Please let me know how we may be of further service to the Court.

Yours very truly,



Edgar C. Gentle, III
Claims Administrator

ECGIII/pfo

Schedule of Attachments:

1. **Exhibit A** - Proposed Letter to Medical Monitoring Claimants Containing Property Remediation Program Results and First Round Medical Monitoring Disease Information (REDACTED)
2. **Exhibit B** - Follow-up Memorandum to Participating Physicians
3. **Exhibit C** - Proposed Initial Screening Medical Interview Form
4. **Exhibit D** - DuPont's Preliminary Objections

cc: (with attachments)(by e-mail)(confidential)
David B. Thomas, Esq.
James S. Arnold, Esq.
DuPont Representatives on the Settlement Finance Committee

Virginia Buchanan, Esq.
Plaintiff Class Representative on the Finance Committee

Meredith McCarthy, Esq.,
Guardian Ad Litem for Children

Clerk of Court of Harrison County,
West Virginia, for filing (via hand delivery)

September 3, 2013

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cc: (continued)

Terry D. Turner, Jr., Esq.

Diandra S. Debrosse-Zimmermann, Esq.

Katherine A. Harbison, Esq.

Michael A. Jacks, Esq.

Mr. Billy Sublett

William S. ("Buddy") Cox, Esq.

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McDavid Flowers, Esq.

Farrest Taylor, Esq.

Ned McWilliams, Esq.

Angela Mason, Esq.

Mr. Don Brandt

Mr. Randy Brandt

EXHIBIT A

Proposed Letter to Medical Monitoring Claimants Containing Property
Remediation Program Results and First Round Medical Monitoring
Disease Information (REDACTED)

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
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_____, 2013

[CLAIMANT NAME]
[CLAIMANT ADDRESS]

RE: The Perrine Medical Monitoring Program - Second Round of Testing; Our File
No. 4609-1{GG}, 4609-1{GG-1}, and 4609-1{GG-13}

Dear Claimant:

I hope you are well.

You are invited to participate in the second round of testing provided by the Perrine Medical Monitoring Program (the "Medical Monitoring Program" or the "Program"), which is scheduled to begin in November 2013.

The Program provides free testing for disease for Claimants who lived in the Class Area a minimum amount of time, have already registered for the Program and checked the "yes" box for testing. In deciding whether to participate this time, please note that (i) ___% of houses tested in the Class Area and ___% of soils tested in the Class Area Zone 1A had hazardous levels of lead, cadmium, arsenic or zinc; and (ii) ___ % of those medically tested by the Program during the first round of testing had abnormal results. See below.

The Medical Monitoring Program was created to last 30 years, with medical testing conducted once every 2 years. The first round of testing was completed, and only about 50% of the Medical Monitoring Claimants participated and took advantage of the benefits provided in the Medical Monitoring Program.

Your right to participate in the Program will last for the entire 30 year period. So, if you chose not to participate in the first round of testing, you are still eligible to participate in the upcoming second round of testing. The Settlement strongly recommends that you participate in the second round of testing for the reasons discussed below.

I. Benefits Provided by the Medical Monitoring Program

The purpose of medical testing in the Medical Monitoring Program is to provide free early detection of positive findings of diseases, possibly associated with exposure to zinc, cadmium, arsenic or lead. Please note that the Medical Monitoring Program does not provide for any medical treatment, but it does include the following:

- ◆ urinalysis for all Participants over age 15,
- ◆ blood tests for all Participants, and
- ◆ stool samples for all Participants age 18 and above.

After your test results have been returned to your participating physician, you will receive a consultation and physical examination from your participating physician. The Medical Monitoring Program also provides for some additional testing by medical specialist(s), if referred by your participating physician.

The Medical Monitoring Program pays 100% of the cost of the scheduled benefits, so you will not be required to pay deductibles, co-payments, or co-insurance for these tests. Please note, however, that the Medical Monitoring Program does not provide funding for actual medical treatment.

CTI Administrators, Inc. (CTIA) has been selected to assist you in scheduling your testing appointment and provide ongoing customer service to the Participants.

For more information regarding the Medical Monitoring Program, please refer to the Claimant Frequently Asked Questions and Answers conveniently located on the Settlement website at www.perrinedupont.com, or call CTIA at 1-866-265-6139.

II. Results of the First Round of Medical Monitoring Testing

Of the ____ tests performed in the first round of testing in the Medical Monitoring Program for the ____% of Claimants who agreed we can use their results for research, ____ (or ____%) had abnormal results. While these results are not related to a specific diagnosis, the Settlement recommends that you participate in the second round of testing. In addition, __ tests were referred to specialists for diagnoses related to the following: cancer and tumors (____%), urinary diseases (____%), skin disorders (____%), digestive disorders (____%), respiratory diseases (____%), heart diseases (____%), endocrine disorders (____%), and miscellaneous diseases (____%).

III. Results of the Property Remediation Program in 2012

As you may be aware, this Settlement provides for a Property Remediation Program (the "Property Clean-Up Program") for Class Areas house and soil properties that have been shown through laboratory testing to be contaminated with hazardous levels of lead, arsenic, cadmium or zinc above the Court-approved clean-up levels.

A. House Remediation

The Settlement has tested ___ Class Area houses, of which __ (or about __%) were found to have hazardous levels of lead, arsenic, cadmium and/or zinc. To date, of the __ contaminated houses, the Settlement has remediated approximately __ houses, and remediation is ongoing.

B. Soil Remediation

The Settlement has tested __ soil properties, of which __ (or about __%) were found to have hazardous levels of arsenic, lead, cadmium and/or zinc. To date, of the __ contaminated soil properties, the Settlement has remediated approximately __ soil properties, and remediation is ongoing.

Based on (i) the percentages of abnormal test results from the first round of Medical Monitoring testing, (ii) the percentages of referrals to specialists as a result of testing, and (iii) the percentages of contaminated houses and soil properties, we strongly recommend that you participate in the second round of testing and take advantage of the free benefits provided in the Medical Monitoring Program.

We look forward to working with you during the second round of testing.

Yours very truly,

Edgar C. Gentle, III
Claims Administrator

EXHIBIT B

Follow-up Memorandum to Participating Physicians

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
ATTN: EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
C/O SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE

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August 2, 2013

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United Hospital Center
327 Medical Park Drive
Bridgeport, WV 26330

Mrs. Lori Martino
MVA Clinics
1322 Locust Avenue
P.O. Box 1112
Fairmont, WV 26555-1112

Ms. Tiffany Davis
MedExpress Urgent Care
120 Medical Park Drive, Suite 100
Bridgeport, WV 26330

Mrs. Jennifer Owens
Bridgeport Express Care
2 Chenoweth Drive
Bridgeport, WV 26330

Ms. Cathy Waggy
UPC Shinnston
686 S. Pike Street
Shinnston, WV 26041

Ms. Julia Loeffler
UPC Bridgeport
1511 Johnson Ave, Suite 104
Bridgeport, WV 26330

RE: The Perrine Medical Monitoring Plan (the "Plan") - A Product of the
Perrine DuPont Settlement - Second Round of Testing Planning; Our File
No. 4609-1 {GG} and 4609-1{GG-1}

Dear All:

Thank you for recently meeting with Don and Randy Brandt of CTIA and me regarding the second round of Plan testing.

We look forward to working with each of you, and to using your services for our Plan Claimants.

This memorandum tries to summarize the topics we reviewed with you, and the great ideas you shared with us, to try to improve the Plan and Plan Claimant participation.

A. MAKING SPECIALISTS MORE CONVENIENT

Concerning specialists, we will continue to use United Hospital Center (UHC), as we did during the first round of testing, for the CT scans and radiology readings. To make specialists more accessible, instead of, for example, a toxicologist in Pittsburgh, and a urologist in Buckhannon, we hope to make more use of UHC's specialist services in nearby Bridgeport, by contacting UHC specialists in nephrology, urology, dermatology, gastroenterology, anesthesiology, pulmonology, radiology, and neuro psychology. UHC has 3 pathologists, but no toxicologist. We will discuss with them what services they provide, and see if they can substitute for a toxicologist.

B. THE KEY TO CLAIMANT PARTICIPATION:
CLINIC HOURS AVAILABLE FOR CLAIMANTS

In reviewing the level of Plan Claimant participation during round one at each of the 5 participating Clinics, we found that Clinics with the most participating Claimants have more available hours, including after work and after school hours. While schedules and availability fluctuated, below is a comparison of typical available hours by Clinic:

Name of Group	Weekly Scheduling Capacity				
	Monday	Tuesday	Wednesday	Thursday	Friday
UPC (Shinnston Healthcare)		9:00am - 11:00am	8:00am - 9:00am	9:20am - 11:30am 1:10pm - 4:20pm	
UPC (Bridgeport Physicians Care)		8:00am - 10:00am			8:00am - 10:00am
MedExpress		9:00 am - 9:00 pm			
Bridgeport Express Care	10:00 am - 6:00pm				
MVA Fairmont	Unknown				
MVA Shinnston	Unknown				

We encourage each Clinic to facilitate Claimant participation, by making participation as convenient as possible.

C. PLANNING FOR ROUND TWO OF TESTING

Round two of testing begins November 1, 2013. We will begin to schedule appointments in October after we send the Plan Claimants a round two testing letter in September, while providing you a copy.

To generate Claimant interest in testing, in the letter we will describe (i) the first round Claimant test results, based on test data from the 93% of Claimants who consented to the scientific use of their test results, and (ii) Class Area contamination test results, and remediation progress. We welcome your ideas on other ways to generate Claimant interest in the Plan.

At your request, the reminder letter will more clearly state that the Plan provides free medical testing but not medical care. Many Clinics complained that Claimants would come for the first appointment to be tested, but failed to show up for the follow-up visit to review the test results. One suggested idea is to make the second appointment at the time of the initial visit, assuming that LabCorp (the testing company) will have the test results in 72 hours.

As you know, if a Claimant doesn't show up for a follow-up visit, you can mail the Claimant the test results with a letter of explanation, and be paid a \$25 fee.

The new Plan card, attached, will include the Claimant's Social Security Number this time, as well as the phone number for the local Spelter Claims Office, which is (304) 622-7443.

To make Claimant appointment sign-ups more efficient (only 50% made it to an appointment in round one), after CTIA tries to set up an appointment with the attached draft correspondence, the local Spelter Claims Office will follow-up locally. Each Clinic will also be able to make appointments directly with the Claimants that utilized the Clinic during the first round of testing.

D. PROGRAM FORMS

Many of you suggested that we develop a Uniform Screening Form for the Claimant interview. We will develop a draft for your review shortly, and welcome any forms which you now use, as a potential guide.

As a reminder, we will require any new Claimants that did not participate in round one to complete the Medical Authorization Form, and the Scientific Research Consent Form (in which they can agree to or decline the use of their test results for research). The new Claimants must complete these before being tested. We will be printing a new supply of these forms, and the Spelter Claims Office will deliver them prior to the beginning of round two.

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The CT Scan Authorization Form must be completed by the physician completing the exam determining whether or not a CT scan is needed.

We will also give you copies of the Plan Newsletter and updated Plan Claimant Questions and Answers, so each patient can have one.

E. YOUR SUGGESTED PLAN MODIFICATIONS

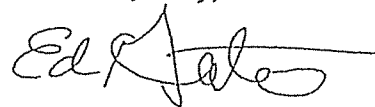
The Plan will continue to use LabCorp to collect and run the lab tests. LabCorp will contact the five (5) Clinics to see if you need any supplies.

One Clinic suggested that the Clinic do the urine culture if the urine is positive, instead of having a specialist do it. Please send us a list of the recommended tests. We will then review this suggestion with the Settlement Finance Committee, and will get a response shortly.

It was also suggested that there be a direct test for all four metals, cadmium, arsenic, zinc and lead. Please send us a list of the recommended tests. We will also vet this possible Plan modification, and reply shortly.

Thank you, again, for your support of the Perrine Medical Monitoring Program.

Yours very truly,



Ed Gentle,
Settlement Administrator

ECGIII/pfo
Enclosures

cc: (via e-mail)(with enclosures)
Mr. Donald Brandt
Mr. Randy Brandt

Founders of the Persian Empire Sculptures

JUNIOR BRANDT
100 COURT AVE STE 306 SAMP
DES MOINES, IA 50309

Dear JUNIOR BRANDT:

To schedule your appointment for Testing, please contact:

It is very important that you call and make an appointment.

We are pleased that you have agreed to participate in the Plan. As explained to you, CTI Administrators, Inc. (CTIA) will provide assistance in scheduling your medical testing, as well as, claim payments and customer service. We look forward to serving you and other participants in the Perine Medical Monitoring Plan.

Two biennial testing protocols have been adopted for the Plan based upon the age of the participant. Each biennial testing period begins with:

- Adult Testing for Participants ages 18 and above, and
- Child Testing for Participants under age 18.

Perrine Medical
Monitoring Plan
Procedure of the Perrine Medical Settlement

Both protocols assume that there will be an initial set of tests followed by a Consultation and Physical Examination with a Participating Physician to review your test results. The initial tests include:

- urinalysis for all Participants over age 15,
- blood tests for all Participants, and
- stool sample cards provided to Participants over age 17.

Depending on the test results and physical examination, referrals may be made by the Participating Physician to a Specialist including:

- Urologist, for consultations and cytopathology for patients testing positive to urinary system tests;
- Dermatologist, for skin tests for some patients testing positive to urinary system tests;
- Gastroenterologist and/or Proctologist, for consultations, additional stool sample tests, and upper GI endoscopy; and/or
- Medical Toxicologist, for consultations and complete blood count, lead and zinc tests.

Subsequent referrals may be made to an Anesthesiologist, Psychologist, Pulmonologist, and/or Radiologist.

All participants must use Participating Providers who have contracted with the Plan. We will keep you informed of the Participating Providers in your area. Please call if you have questions.

Sincerely,

Lynn Cozad

cc: UPC Shinnston Healthcare

Perrine Medical
Monitoring Plan
Product of the Perrine Outlier Settlement

UPC Shinnston Healthcare
686 S Pike St
Shinnston, WV 26431

On July 25, 2013, we spoke to the following claimant in the Perrine Medical Monitoring Plan. During our conversation, the participant chose your clinic for their medical monitoring appointment. CTIA provided your contact information and asked them to call your office to make their own appointment for their medical monitoring visit.

JUNIOR BRANDT
100 COURT AVE STE 306 SAMP
DES MOINES, IA 50309
Telephone #:
DOB: 01/01/2000
SSN: 982222222

Once this claimant make their appointment, UPC will email CTIA the name, birthdate, SSN, date and time of the appointment to: lcozad@claimtechnologies.com

Please let us know if the claimant fails to schedule their testing appointment within three weeks of the date of this notification, so that we may follow up with this participant. You can do this by completing and faxing to 515-244-8650 the following information:

As of _____ (date), the above claimant _____ has not made an appointment for Medical Monitoring Testing.

Completed by: _____
(UPC Shinnston)

EXHIBIT C

Proposed Initial Screening Medical Interview Form

Physicians Consultation Checklist

Procedure	Procedure Code	Description	Allowable Fee	
Office Visit OP New Patient	99243	<p>OV for new patient: Use this code for initial consultation with Perrine Medical Monitoring Plan patient.</p> <p>Physicians should use their best medical judgment when providing services to participants in the plan. Evaluation and Management should include:</p> <ul style="list-style-type: none"> • Detailed History; • Detailed examination; and • Medical decision making of low complexity <p>Physical examination should include head to toe review for skin lesions. If suspicious skin lesion is noted, refer to dermatologist if necessary.</p> <p>For referrals refer to list of specialists authorized for payment by the Plan. General guidelines for referral to a specialist:</p> <ul style="list-style-type: none"> • If there is blood on the UA or positive or positive cytology refer to Urologist; • If there is beta-2-microglobulin or BUN/Creatinine elevated refer to Nephrologist; • If there is a child with greater than 5ug/dl of lead or adult with greater than 20ug/dl of lead, refer to Neuropsychiatric evaluation; • If there is a child with greater than 10ug/dl of lead or adult with greater than 30ug/dl of lead, refer to Medical Toxicologist; • If stool quaic test is positive for blood, refer to Gastroenterologist <p>If medically indicated, recommend a CT Scan and complete the "CT Scan Verification Form". If CT Scan is positive, refer patient to Pulmonologist or Cardiothoracic surgeon.</p>	\$170.00	<input type="checkbox"/>
Office Visit OP Existing Patient	99242	OV for established patient (see above)	\$140.00	<input type="checkbox"/>

Forms to be completed
(Forms will be picked-up weekly by Perrine-DuPont Claims Office)

Form	Description		
CT Scan Verification Form	Provider to complete. Retain for weekly pick-up by Perrine-DuPont Claims Office	Do not bill for this service	<input type="checkbox"/>

PHYSICIAN SCREEING FORM

Step 1: Biennial Testing – Lab tests ordered through LabCorp depending upon age of Claimant.

Under Age 15	Blood Test Only
Age 15 – 17	Blood and Urinalysis Test
Age 18 and older	Blood, Urinalysis and Stool Sample Test

Retests – Retests should be taken based upon the best judgment of the physician using the following guidelines:

- Retest if specimen was lost or damaged.
- Retest if test results appear to be unreliable or improbable based upon the claimants medical history.
- Retest if results were very close to exceeding the normal range and other symptoms of bad health were present. In this case a retest should be taken in 6 months.

Step 2: Physician's Consultation

The consultation should consist of a physical examination, review of laboratory findings, pros and cons of having a CT scan (if the claimant is 35 years of age or older and not pregnant), and additional testing with a specialist on an as needed basis.

Covered Procedures for the Primary Care Physician (PCP)

The Primary Care Physician will either have a 30 minute consultation (99242 for existing patients) or a 40 minute consultation (99243 for new patients).

Step 3: Referrals to Specialists

If the PCP determines an individual needs to have a CT scan or see a specialist, please contact CTI Administrators at 866-265-6139 to identify an approved imaging facility or specialist in your area. Specialists allowed by the Plan include:

Dermatologist*	Urologist
Nephrologist	Gastroenterologist
Pulmonologist	Psychologist
Toxicologist	Anesthesiologist
Cardiothoracic Surgeon	Radiologist & Imaging Facility

**The PCP may perform the services of the Dermatologist; however, all other specialty services must be performed by the designated specialist.*

Initial Testing Checklist

Procedure	Procedure Code	Description	Allowable Fee	
Office Visit	99201	OV for new patient	\$60.00	<input type="checkbox"/>
Office Visit	99211	OV for established patient	\$32.00	<input type="checkbox"/>
Specimen Handling (age 15 and older)	99000	For conveyance of specimen to LabCorp	\$12.00	<input type="checkbox"/>
Venipuncture	36415	For conveyance of blood to LabCorp (use LabCorp form designed for Perrine-DuPont Biennial Testing)	\$10.00	<input type="checkbox"/>
Hemocult Test (age 18 & older)		Provide stool sample card to adult patients to be returned directly to LabCorp	Do not bill for this service.	<input type="checkbox"/>

Forms to be completed
(Forms will be picked-up weekly by Perrine-DuPont Claims Office)

Form	Description		
Medicare Questionnaire	Patient to complete. Retain for weekly pick-up by Perrine-DuPont Claims Office	Do not bill for this service	<input type="checkbox"/>
Authorization to Retain Test Results	Patient to complete so test results can be used for scientific research. All results will be DE identified. Retain for weekly pick-up by Perrine-DuPont Claims Office	Do not bill for this service	<input type="checkbox"/>

Tests to be performed by LabCorp

LabCorp Test Number	Description
003772	Urinalysis, complete with microscopic examination
007625	Lead blood (adult)
007625	Lead blood (pediatric)
010173	Assay of beta-2 protein urine
001370	Creatinine serum
001040	Blood urea nitrogen (BUN)
004036	Urine pregnancy test (age 35 – 55)
182949	Occult blood, by fecal hemoglobin

EXHIBIT D

DuPont's Preliminary Objections

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DAVID B. THOMAS
Direct Dial: (304) 414-1807
E-mail: jarnold@tcspllc.com

September 3, 2013

Edgar C. Gentle, III, Esquire
Claims Administrator
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Spelter, WV 26438

Via Electronic Mail
escrowagen@aol.com

Re: Perrine v. DuPont, Civil Action No. 04-C-296-2
Proposed Report to the Court Respecting Second Round of
Medical Monitoring Claimant Participation Issues

Dear Ed:

We received the proposed "Report to the Court Reflecting Second Round of Medical Monitoring Claimant Participation Issues" ("Report") which was forwarded to us by email on August 28, 2013, and which invited editorial suggestions by noon on September 3. This letter is to advise you of DuPont's objections to certain of the procedures proposed in the Report and to contents of Exhibits A and C. I summarize those objections below.

1. Publication of Remediation and Medical Monitoring Data. Issue A of the Report raises the question of providing the Medical Monitoring Claimants with data on soil and properties which tested "above safe levels of cadmium, arsenic as lead" and data on medical monitoring testing. The proposed letter including this data, Exhibit A to the Report, should not be published.
 - a. The idea of publishing this data is based upon unsupported and dubious premise that "a Medical Monitoring Claimant could make a more reasonable choice on whether to participate in the Program . . ." if provided that data.
 - b. The Memorandum of Understanding and the subsequent Orders of the Court do no permit the disclosure of testing data to members of either the Property Remediation or Medical Monitoring Classes.
 - c. Because you intend to disclose this data to the Court and Counsel under seal, you obviously recognize the privacy and confidentiality concerns which envelop the data. DuPont submits that the proposed disclosure of the data circumvents the Court's March 3, 2011 "Final Order Approving Protective Order and Confidentiality Agreement" and "Protective Order."
 - d. No good reason exists for the disclosure of property remediation data to Medical Monitoring Class Members.

THOMAS COMBS & SPANN, PLLC

Edgar C. Gentle, III, Esquire

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- e. Property Remediation Class Members have not consented to the release of property remediation test data.
- f. You propose to publish data as summaries thereof without any opportunity or procedure permitting DuPont or any public health authority to evaluate or challenge that data.
- g. The third paragraph and Part III of Exhibit A would provide property remediation data impermissibly labeling certain test results as "hazardous."
 - i. The content of those portions of Exhibit A may cause unreasonable fear of risk of disease which is not supported by any medical or toxicological opinion based on a study of that data. Without specific findings of the quantities of metals at a specific location and an assessment of any health risk by a toxicologists and medical professional, the information sought to be disclosed provides little, if any, information of benefit to a Medical Monitoring Claimant, and disclosures of that information may lead to a health scare that is without medical or scientific basis.
 - ii. The property testing information Exhibit A seeks to disclosure will almost certainly have an adverse impact upon property values in the Class Area even after remediation should have removed or at least reduced any stigma to the properties within the Class Area. Owners of these properties should be protected from the dissemination of misleading information about any risk of harm from metals that have been removed from the Class Area.
 - iii. In paragraphs A and B of Part III of Exhibit A, you propose to report the percentages of Class Area houses and soil properties which "were found to have hazardous levels of arsenic, lead, cadmium and/or zinc." Yet during the August 22 quarterly meetings, you reported to the Finance Committee and Medical Monitoring Council that no abnormal levels of zinc have been found by the remediation testing to date.
- h. The third paragraph and Part II of Exhibit A would impermissibly provide medical monitoring testing data for the following reasons:
 - i. Participants in the Medical Monitoring Program have not consented to the release of their testing information to other members of the class and certainly not to the public. The only consent obtained from some of the participants was certainly not for the purpose now advanced by the Claims Administrator.
 - ii. The content of these portions of Exhibit A may cause unreasonable fear of risk of disease which is not supported by any medical or toxicological opinion based on a study of the data. Exhibit A makes no effort to link any of the exposure data to the "disease that has been detected." The use of these statistics without scientific analysis suggests that all of the abnormal test results are the result of exposure to arsenic, cadmium or lead from the smelter. DuPont argues that the absence of any such finding is

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- indicative of the fact that no such link can be made. To imply such a link is not only inappropriate but also misleads the Medical Monitoring Class.
- iii. Further, these portions of Exhibit A make no effort to describe the background risks of the "disease that has been detected" and compare that background risk of disease to what the Medical Monitoring Program has found, much less any kind of statistical, scientific, or medical analysis to determine the extent to which any increased risk can be tied to the metals at issue as opposed to other causes.
 - iv. Exhibit A contains no description of the extent to which remediation in the class area and the passage of time have reduced the risk to claimants of the diseases for which the Medical Monitoring Program was established.
 - i. The proposed publication of this data raises too many questions and answers none.
 - (1.) What statistical evidence do you have showing there was an association between those properties that were remediated and participants who had elevated blood lead levels? What expert came to that conclusion?
 - (2.) What statistical evidence do you have showing there was an association between those properties that were remediated and participants who were referred to a specialist? What expert came to that conclusion?
 - (3.) What statistical evidence do you have showing the elevated blood levels were caused by exposure to lead from a property that had been remediated? What expert came to that conclusion?
 - (4.) What statistical evidence do you have showing the participants who were referred to a specialist had a disease caused by exposure to metals on properties that were remediated? What expert came to that conclusion?
 - j. Finally, the draft of Exhibit A twice contains the Claims Administrator's strong recommendation that the recipient/claimant participate in the second cycle of the Medical Monitoring Program. The Claims Administrator should not be making recommendations or expressing opinions to the Medical Monitoring Class. The Claims Administrator's role is to carry out the terms of the settlement reached by the parties.
2. New Medical Monitoring Cards. DuPont objects to the issuance of new Medical Monitoring Cards to each participant in the Medical Monitoring Program as an unnecessary expense. The only proposed changes to the existing Medical Monitoring Card are the addition of the telephone number of the Spelter Claims Office and the statement that the Medical Monitoring Program "is only for testing and not medical care." Both of these items of information are available to each participant in the Medical Monitoring Program through the Settlement's website and the newsletter.
3. One Mailing or Two. DuPont objects to multiple mailings informing participants of the commencement of the second two year cycle of testing.

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- a. Multiple mailings create an unnecessary administrative expense.
 - b. Considerable expense and effort have been expended during the first testing cycle to create and maintain current and accurate contact information on each participant in the Medical Monitoring Program.
 - c. One mailing containing appropriate information necessary to participate in the second cycle of testing constitutes actual notice to the Medical Monitoring Class Members and is all the information for which DuPont should be required to pay under the Settlement.
 - d. The existing website www.perrinedupont.com provides any interested Medical Monitoring Class Members with all the information necessary to participate in the Medical Monitoring Program.
4. Initial Screenings Medical Interview Form. DuPont does not object to the concept of an Initial Screening Medical Interview Form, but DuPont does object to the proposed content on the subject of CT scans.
- a. Exhibit C which we received the Report is incorrectly captioned "Physician Screeing [sic] Form."
 - b. References to CT Scans in Exhibit C fail to include the requirements for CT Scans as defined by the Medical Monitoring Program and should be included in the form. Participating physicians should be informed that the Medical Monitoring Program provides only CT scans which "are diagnostically medically necessary."
5. Measures to Schedule Claimants for Medical Monitoring. DuPont objects to the recommendation that the notice process for encouraging participants to schedule testing appointments based in the first cycle continue in the second cycle because those efforts in the first cycle did not produce demonstrable success.

DuPont's objections regarding the expense of specific proposed procedures in the Report are prompted by the trend of administrative expenses consuming the lion's share of the Medical Monitoring Program budget. In fact, the 2014 Budget just adopted by the Court estimates that only \$408,855 will be paid out in Medical Monitoring Program benefits while incurring \$779,938 in administrative expenses in the next year. Thus, administrative expenses are predicted to consume 65.6% of the Medical Monitoring Program budget although Class Counsel's economic expert, Dr. Michael Brookshire, predicted that administrative expenses should consume little more than 10% of the Medical Monitoring Program budget.

DuPont intends to supplement its objections set forth above in a formal pleading to be filed on or before September 6, 2013, should you decide to proceed as outlined in the Report.

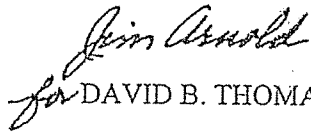
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Sincerely,


for DAVID B. THOMAS

DBT/vrw

cc: Virginia Buchanan, Esq. (*Via E-Mail*)
Meredith H. McCarthy, Esq.