

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, et al., individuals
residing in West Virginia, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 04-C-296-2
Thomas A. Bedell, Circuit Judge

E.I. DU PONT DE NEMOURS AND COMPANY, et al.,

Defendants.

**FINAL ORDER APPROVING CERTAIN ASPECTS OF SETTLEMENT
ADMINISTRATION AND ESTABLISHING BRIEFING SCHEDULE FOR
PRELIMINARILY RECOMMENDED OR UNRESOVLED MATTERS**

Presently pending before the Court are:

- (a) The second budget for the Medical Monitoring and Property Remediation Programs (for the twelve months beginning September 1, 2011 and ending August 31, 2012) submitted by the Claims Administrator on August 19, 2011;
- (b) The Medical Monitoring Implementation Plan, with claimant testing to begin November 1, 2011 also submitted by the Claims Administrator on August 19, 2011;
- (c) DuPont's August 19, 2011, Objection (the "DuPont Objection"); and
- (d) The Claims Administrator's August 24, 2011, Supplemental Report addressing the DuPont Objection.

These four submissions are considered below.

I. THE SECOND BUDGET

Respecting the budget, the Court notes that it is divided into three parts: Property Remediation Fund, Medical Monitoring Fund Pre-Implementation Date Expenses, and Medical Monitoring Fund Post-Implementation Date Expenses, with this third portion of the budget to be funded by additional contributions from DuPont.

In the Claims Administrator's report submitted with the budget, the Claims Administrator has explained that the first two parts of the budget and the months of September and October 2011 for the third part have been finalized by the Claims Administrator, but that the months of November 2011 through August 2012 for the third part, being the final 10 months of the Post-Implementation Date Medical Monitoring Expense Budget during the budget year (the "Preliminary Medical Monitoring Budget" or the "Preliminary Budget"), is an estimate and has not been finalized because (i) the number of claimants participating in the Medical Monitoring Program is unknown, with the working estimate being 3,000, the best available estimate at this time; (ii) the Court has not decided whether the Medical Monitoring Program will include the storage of claimant test results for possible future research; and (iii) the Claims Administrator, in collaboration with CTIA, the Finance Committee and the Guardian Ad Litem for children, is still developing a CT Scan Utilization Guideline (the "CT Rule") for the Medical Monitoring Implementation Plan, with the report suggesting a briefing schedule respecting (i) the last 10 months of the budget year for the Medical Monitoring Plan

Post-Implementation Expense Budget; and (ii) the CT Rule under the Medical Monitoring Implementation Plan, so as to facilitate Claims Administrator preparation of his final recommendations on these matters to the Court by October 10, 2011, as outlined in this Order below. The DuPont Objection has raised additional unresolved issues respecting the Preliminary Budget, which the Claims Administrator, as noted in his Supplemental Report, should try to reasonably resolve with the Parties to the extent practicable, while keeping the implementation of Medical Monitoring on schedule under the Implementation Plan to begin testing on November 1, 2011. Not all of these factors will be resolved to finality when the budget is established, but the Claims Administrator shall do the best he can under the circumstances to prepare a budget fair to DuPont and to implement Medical Monitoring testing as soon as practicable in fairness to the Class.

The Claims Administrator's budget contemplates, however, that DuPont shall make a small additional contribution of \$26,524.57 by August 31, 2011 (the "Bridge Funding"), to fund the Medical Monitoring Expenses to be incurred by CTIA, the Court approved Medical Monitoring Third Party Administrator ("TPA"), under the Court approved TPA contract, in September and October 2011, and that the Post-Implementation Date DuPont contribution for November 2011 through August 2012, now preliminarily estimated by the Claims Administrator to be \$3,928,210.82, will be finalized in a supplemental submission by the Claims Administrator to the Court by October 10, 2011, and to be funded by DuPont by October 31, 2011. The DuPont Objection, however, takes issue with its payment of the Bridge Funding, contending that

it is a Pre-Implementation Date Medical Monitoring Expense that has already been paid by DuPont. This issue will be resolved at the hearing described below, with the Claims Administrator to pay the Bridge Funding expenses from current Medical Monitoring Fund monies, and with the Court, as suggested in the Claims Administrator's Supplemental Report, to decide at a later date whether they should or should not be reimbursed by DuPont.

After a careful review of the second Settlement budget, and in consideration of the applicable law, the Court **ORDERS** that the same is hereby **APPROVED** with respect to (i) the Property Remediation Fund; (ii) the Medical Monitoring Fund Pre-Implementation Date Expenses; and (iii) the small September and October 2011 \$28,524.57 Bridge Funding parts and shall be used in administration of the Settlement. The Bridge Funding shall be paid from DuPont's initial deposit into the Medical Monitoring Fund, with the Court to decide following the hearing described below, if DuPont will or will not reimburse the Medical Monitoring Fund for such payments. The Preliminary Medical Monitoring Budget Post-Implementation Date Expense component for November 2011 through August 2012 shall be finalized by the Claims Administrator as described above, following the briefing by the parties scheduled below, and subject to a subsequent hearing described below.

II. THE MEDICAL MONITORING IMPLEMENTATION PLAN

The Medical Monitoring Implementation Plan consists of a proposed logo, definitions of "active" and "inactive" claimant for purposes of the TPA Contract previously approved by the Court, procedures involving "no" minor claimant when they

become adults, and when an "inactive" claimant can be "active" for Medical Monitoring, a suggested list of Medical Providers, an Implementation Time Line, and a proposed CT Scan Protocol, which contemplates that the preliminary CT Rule will be shared by the Claims Administrator with the Court and the Parties, by September 1, 2011. In addition, the August 24, 2011 Supplemental Report notes that DuPont would like the opportunity to have the Court review the Claims Administrator's suggested procedure on how to handle "no" box minor Medical Monitoring claimants when they become adults and when may an "inactive" Medical Monitoring claimant become "active" (the "Minor No-Inactive Claimant Rules").

After a careful review of the Medical Monitoring Implementation Plan, and a consideration of the applicable law, the Court **ORDERS** that the components of the Medical Monitoring Implementation Plan, other than the yet-to-be developed CT Rule and the Minor No-Inactive Claimant Rules, are hereby **APPROVED** and shall be used in the administration of the Settlement.

**III. BRIEFING SCHEDULE ON PRELIMINARILY RECOMMENDED
AND UNRESOLVED MATTERS**

The Claims Administrator, after further collaboration, shall share with the Court and the Parties by September 1, 2011 (i) a revised Preliminary Budget reasonably accommodating the DuPont Objection; and (ii) the preliminary CT Rule. Within 20 days thereafter, DuPont, Class Counsel, the Guardian Ad Litem for children, or any other interested Parties, may submit comments, briefs or factual evidence to the Court and the Claims Administrator, for consideration, respecting (i) the Preliminary Budget; and/or

(ii) the Claim's Administrator's preliminarily recommended CT Rule in the Medical Monitoring Implementation Plan; and/or (iii) the Minor No-Inactive Claimant Rules. Thereafter, DuPont, Class Counsel, the Guardian Ad Litem, or any other interested Parties, whether or not they initially sought Claims Administrator consideration, may reply to any such consideration submission made to the Court and the Claims Administrator within 10 days thereafter.

The Court contemplates that it will make a determination on whether the Medical Monitoring Program is to store Medical Monitoring test results for possible scientific research prior to October 1, 2011.

By October 10, 2011, the Claims Administrator, after considering the submissions of the Finance Committee, the Guardian Ad Litem for children and all other interested parties, and using the best evidence available to him at the time, shall submit his final recommendations to the Court respecting: (i) the November 2011 through August 2012 portion of the Medical Monitoring Fund Post-Implementation Date Budget; (ii) the CT Rule under the Medical Monitoring Implementation Plan; and (iii) the Minor No-Inactive Claimant Rules..

The Court will then set down for a hearing (i) the question of whether DuPont shall or shall not reimburse the Medical Monitoring Fund for the Bridge Funding; (ii) the November 1, 2011 through August 31, 2012 portion of the Medical Monitoring Fund Post-Implementation Date Budget; and (iii) the CT Rule under the Medical Monitoring Plan; and (iv) the Minor No-Inactive Claimant Rule.

Lastly, pursuant to Rule 54(b) of the West Virginia Rules of Civil Procedure, the Court directs entry of this Order as a Final Order as to the claims and issues above upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment.

IT IS SO ORDERED.

The Clerk of this Court shall provide certified copies of this order to the following:

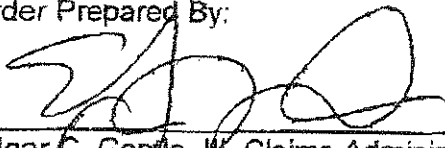
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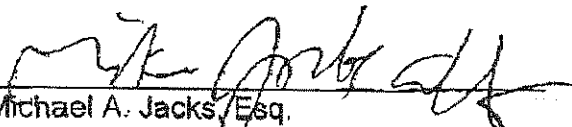
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