

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, et al.,

Plaintiffs,

vs.

Case No. 04-C-296-2
(Honorable Thomas A. Bedell)

E.I. DU PONT DE NEMOURS AND COMPANY,
a Delaware corporation doing business in West
Virginia; et al.,

Defendants.

**SUBMISSION OF GUARDIAN AD LITEM REGARDING
MEDICAL MONITORING PROGRAM PRELIMINARY
OPTIONAL DATA COLLECTION CONSENT
AND CT SCAN VERIFICATION FORMS**

Now comes Meredith H. McCarthy, Guardian Ad Litem for the minor children and incompetent adults in the above-referenced action, and offers her submission in conjunction with the Order Establishing Medical Monitoring Program Preliminary Optional Data Collection Consent And CT Scan Verification Forms Briefing Schedule, entered September 21, 2011. Generally, counsel is in agreement with the Claims Administrator on the manner and use of said forms, and addresses them separately as follows:

I. Medical Monitoring Program Scientific & Health Data Collection Claimant Consent Form

Pursuant to the September 20, 2011 correspondence to the Court, the Claims Administrator proposes to submit the Scientific and Health Data Collection Claimant Consent Form to each verified registrant to complete when s/he has an initial Medical Provider appointment in the Program. Counsel agrees with the current proposal, provided that the Medical Providers understand the form and can read the form to the claimant, if necessary. Additionally, the only amendments

suggested to the form include that in paragraph one, "incompetent adult" be added after minor child in the second sentence after the name line. This would prove helpful for parents acting as guardians for their incompetent adult children, as well as, adult children who are acting as legal guardians of their elderly incapacitated parent. Next, on page 3 paragraph 5 to correct a typo- add an "s" to section and take out the extra "to facilitate". I believe it should read "sections 2 and 3 above to facilitate. . . ." On pages 3 and 4 paragraph 9, spell out protected health information rather than "PHI" so as to be consistent with the rest of the form. On page 4, the unnumbered paragraph after 11, when discussing obligations- add "Plaintiffs' Counsel" before DuPont, and remove the extra "for DuPont or the Claims Administrator" on the last line. Finally, before the signature line, add language that "I have had the opportunity to read or have had this document read to me, and have considered the contents of this authorization." Thereby, accommodating claimants who may struggle with reading difficulties and demonstrating to third-parties that consent was knowingly given. For clarity, counsel has noted the suggested revisions on the form included as "Attachment 1".

II. Medical Monitoring Program CT Scan Physician Verification Form

With regard to the CT Scan Physician Verification Form, the Claims Administrator proposes that the form be completed by the physician for every eligible claimant, regardless of whether a CT Scan is ordered, at the time of the physician examination/interaction and promptly forwarded to CTIA. Counsel agrees with the Claims Administrator's current proposal regarding the CT Scan Verification Form. The only amendment suggested by counsel is in paragraph 2, when discussing the physical exam, to include all of the tests recommended by Dr. Werntz. Specifically, adding the skin examination, the HEENT (head, ear, eye, nose and throat) exam, the peripheral motor function

test, and the review of Hemocult cards. *See* Wertz Report of March 30, 2007 at p. 7. Further, adding language to indicate that the physician considered the “total examination of the patient, including all of the test results outlined in paragraph two . . .” when determining whether to recommend a CT Scan as being medically necessary and relevant to possible exposure to heavy metals contamination. For clarity, counsel has noted the suggested revisions on the form included as “Attachment 2”.

Again, the undersigned agrees with the manner and use of the preliminary forms submitted by the Claims Administrator, and suggests only minor revisions, which were previously missed by this counsel, for consideration by the Court.

Respectfully submitted,

Meredith H. McCarthy, W.Va. Bar 7540
*Guardian Ad Litem for class members that
are minors or incompetent adults*
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CERTIFICATE OF SERVICE

I, Meredith H. McCarthy, do hereby certify that I have this 5th day of October 2011, given notice of the filing of the foregoing *Submission of Guardian Ad Litem regarding Medical Monitoring Program Preliminary Optional Data Collection Consent and CT Scan Verification Forms* upon the following counsel of record, by hand delivery or by depositing a true copy thereof in the United States Mail, postage prepaid, in envelopes addressed to:

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