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FILED
CIRCUIT COURT

2011 FEB 22 PM 3:43

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*ALSO ADMITTED IN FLORIDA
**ONLY ADMITTED IN WEST VIRGINIA

February 22, 2011

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) - Proposed Protective Order and Confidentiality Agreement; Our
File No. 4609-1 {DD} and 4609-1 {GG}

Dear Judge Bedell:

I hope this letter finds the Court well.

In accordance with the prior Orders of this Court, the Claims Administrator, after consulting with the Finance Committee, recommends that the following documents to be used during the administration of the Medical Monitoring and Property remediation portions of the Settlement:

- (a) Protective Order
- (b) Confidentiality Agreement

I have also prepared a Final Agreed Order which approves the use of document (b) in the administration of the Settlement. If the proposed documents and Final Agreed Order meet with your approval, I request that the Court enter the Final Agreed Order and Protective Order. Should any aspect of the documents, Protective Order, or Final Agreed Order be inappropriate, please let me know how to accommodate the desires of the Court.

February 22, 2011

Thank you for your consideration.

Yours very truly,



Edgar C. Gentle, III

ECGIII/maj
Enclosures

cc: (with enclosures) (by e-mail)

Stephanie D. Thacker, Esq.,
DuPont Representative on the Settlement Finance Committee

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

Meredith McCarthy, Esq.,
Guardian Ad Litem for Children

cc: (with enclosures) (by hand delivery)
Clerk of Court of Harrison County,
West Virginia, for filing

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, et al.,

Plaintiffs,

v.

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

E. I. DUPONT DE NEMOURS &
COMPANY, et al.,

Defendants.

**FINAL ORDER APPROVING PROTECTIVE ORDER
AND CONFIDENTIALITY AGREEMENT**

Presently pending before the Court are the following documents that are proposed for use during the administration of the Perrine DuPont Settlement ("Settlement") by the Claims Administrator:

- (a) A Protective Order which shall protect all confidential information collected from Medical Monitoring Class Members and Property Remediation Class Members during the Administration of the Settlement (Exhibit A); and
- (b) A Confidentiality Agreement, which shall bind all of the individuals who will work on the Settlement to protect the confidential information of Class Members (Exhibit B).

After a careful review of the above documents, and in consideration of the applicable law, the Court **ORDERS** that the same are hereby **APPROVED** and shall be used during the administration of the Settlement.

After careful review of the Claims Administrator's proposed Protective Order, the Court approves of its language, form, and effect. Further, the Court shall enter the Protective Order

contemporaneously with this Order, and the same shall be made part of the record of this case.

Next, the Court has reviewed the Confidentiality Agreement, which shall be executed by each individual who may come into contact with Class Members' confidential information during the administration of the Settlement. The Court approves of the language and effect of the Confidentiality Agreement, and hereby **ORDERS** that the Confidentiality Agreement shall be used during the administration of the Settlement. Further, the Court **ORDERS** that each individual who will come into contact with confidential information during the administration of the Settlement shall execute a Confidentiality Agreement and return the same to the Claims Administrator, who shall keep each executed Confidentiality Agreement at the Settlement Claims Office.

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:

Stephanie Thacker, Esq.
Allen, Guthrie & Thomas, PLLC
P.O. Box 3394
Charleston, WV 25333-3394
DuPont's Finance Committee Representative

Virginia Buchanan, Esq.
Levin, Papantonio, Thomas, Mitchell,
Rafferty & Proctor, P.A.
P.O. Box 12308
Pensacola, FL 32591
Plaintiffs' Finance Committee Representative

Meredith McCarthy, Esq.
901 W. Main St.
Bridgeport, WV 26330
Guardian Ad Litem


Edgar C. Gentle, III, Esq.
Settlement Claims Office
P.O. Box 257
Spelter, WV 26428
Claims Administrator

This Order Agreed to By:


Stephanie Thacker, Esq.
Allen, Guthrie & Thomas, PLLC
P.O. Box 3394
Charleston, WV 25333-3394
*DuPont's Finance Committee
Representative*

Virginia Buchanan, Esq.
Levin, Papantonio, Thomas, Mitchell,
Rafferty & Proctor, P.A.
P.O. Box 12308
Pensacola, FL 32591
*Plaintiffs' Finance Committee
Representative*

This Order Prepared By:



Edgar C. Gentle, III, Esq.
Gentle, Turner & Sexton
P. O. Box 257
Spelter, WV 26438
Claims Administrator



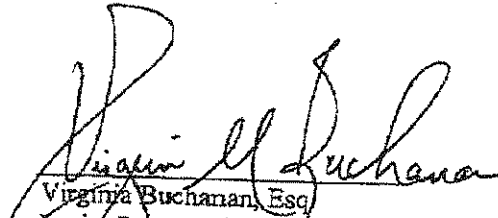
Michael A. Jacks, Esq.
Gentle, Turner & Sexton
W. Va. Bar No. 11044
P.O. Box 257
Spelter, WV 26438

ENTER: _____

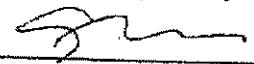
Thomas A. Bedell, Circuit Judge

This Order Agreed to By:

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Charleston, WV 25333-3394
*DuPont's Finance Committee
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*Plaintiffs' Finance Committee
Representative*

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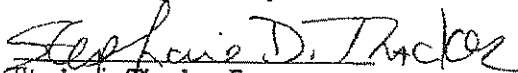

Edgar C. Gentle, III, Esq.
Gentle, Turner & Sexton
P. O. Box 257
Spelter, WV 26438
Claims Administrator

Michael A. Jacks, Esq.
Gentle, Turner & Sexton
W. Va. Bar No. 11044
P.O. Box 257
Spelter, WV 26438

ENTER: _____

Thomas A. Bedell, Circuit Judge

This Order Agreed to By:



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P.O. Box 3394
Charleston, WV 25333-3394
*DuPont's Finance Committee
Representative*

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Rafferty & Proctor, P.A.
P.O. Box 12308
Pensacola, FL 32591
*Plaintiffs' Finance Committee
Representative*

This Order Prepared By:

Edgar C. Gentle, III, Esq.
Gentle, Turner & Sexton
P. O. Box 257
Spelter, WV 26438
Claims Administrator

Michael A. Jacks, Esq.
Gentle, Turner & Sexton
W. Va. Bar No. 11044
P.O. Box 257
Spelter, WV 26438

ENTER: _____

Thomas A. Bedell, Circuit Judge

EXHIBIT A

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, CAROLYN HOLBERT,)
WAUNONA MESSINGER, REBECCA)
MORLOCK, ANTHONY BEEZEL, MARY)
ELLEN MONTGOMERY, MARY LUZADER,)
TRUMAN R. DESIST, LARRY BEEZEL, and)
JOSEPH BRADSHAW, individuals residing)
in West Virginia, on behalf of themselves and)
all others similarly situated,)

Plaintiffs,)

v.)

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

Defendants.)

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

PROTECTIVE ORDER

This Protective Order shall apply to all "protected health information" and "individually identifiable health information", (hereinafter "PHI") as defined by 45 CFR §160.103, or information that is otherwise protected from disclosure by the Privacy Act, 5U.S.C. § 551a, the Health Insurance Portability and Accountability Act of 1996, Pub. L.104-191, 42 CFR Section 431 Subpart F, titled "Safeguarding Information on Applicants and Recipients" and other applicable state law, created, received or collected from any party, as it relates to the Medical Monitoring Class members and the Property Remediation Class members, including, but not limited to: (1) names and addresses, dates of birth, social security numbers, Medicaid or Medicare identification numbers and other demographic information that identifies, or could be used to the class member; (b) eligibility and entitlement information of the class member to

governmental benefits; (c) claims information relating to the past, present, or future health care of class members; (d) claims information relating to the provision of healthcare to Medicaid and / or Medicare-eligible class members; and, (e) claims information relating to the past, present, or future payment for the provision of healthcare to Medicaid and / or Medicare-eligible class members; (f) medical testing results; (g) medical records; (h) pharmaceutical records; (i) records from any medical entity relating to the provision of medical testing or healthcare to the Medical Monitoring class members.

The Claims Administrator is hereby granted the right, to store, gather, attain, and utilize any and all medical records, medical statements, medical evaluations, testing results, testing summaries, and any and all medical and/or screening/ testing information, and any and all information which can possibly be interpreted as PHI, for the limited purpose of administering the Medical Monitoring Program in the Settlement Administration of the above matter, and for purposes of tracking the administration of the Medical Monitoring Program, including, but not limited to, reviewing results obtained, referrals to third party medical entities, services provided by a third party medical testing administrator, and services conducted by any medical testing or care provider or other third party which provides services related to the Medical Monitoring Program, and generating reports, pursuant to the restrictions of HIPAA.

Except as provided herein, none of the PHI of the Medical Monitoring Class Members obtained from any source shall be disclosed or used by anyone or by any entity for any purpose, without the explicit written permission of the Court or of the Medical Monitoring Class members.

All parties stipulate that the Medical Monitoring Class members' PHI shall only be used

for the purposes of the administration of the Medical Monitoring Program, and shall be utilized and/or disclosed for no other purpose, and that this Protective Order secures the PHI from unauthorized disclosure.

The Court finds, that in light of the nature of this Medical Monitoring Program established pursuant to the Settlement in the above matter, that good cause exists for issuance of an order only permitting limited disclosure of such information.

During the course of the administration of the Medical Monitoring Program, it shall be necessary for the Claims Administrator, and/or the third party medical testing administrator, to disclose protected health information of the Medical Monitoring Class Members, as that term is defined under HIPAA and the Federal Regulations enacted pursuant to said Act, for the sole purpose of conducting the Medical Monitoring Program.

PHI may be disclosed without further notice by any covered entity or healthcare provider, party or parties' attorney, or Claims Administrator to:

- (1) The Medical Monitoring Class Members themselves, respecting their individual PHI only, the Medical Monitoring Class Members' attorneys, respecting the Medical Monitoring Class Member client's individual PHI only, medical testing or treating physicians, other healthcare providers or laboratories, insurance carriers, or other entities in connection with the administration of the Medical Monitoring Program, and any entity performing, monitoring or administering medical monitoring services on behalf of the Claims Administrator, insurance carrier, third party medical testing administrators, or other entity and/or their employees, agents, or third-party administrators for any of the Class Members involved in the Medical Monitoring Program and in the administration of

this Settlement;

(2) In any proceeding with a health oversight agency¹ as permitted under 45 C.F.R. 164.512²; and/or

(3) Pursuant to a subpoena requesting the production of documents or commanding attendance at deposition or trial to disclose the PHI in response to such request or subpoena, provided that the subpoena is not quashed or extinguished. This Order is intended to authorize such disclosures under the privacy regulations issued pursuant to HIPAA. 45 C.F.R. §164.512(e)(1)(i).

The Claims Administrator, Third Party Administrator, and any other third party that is providing services in furtherance of the Medical Monitoring Program shall maintain any protected PHI or individually identifiable health information subject to this Protective Order in a secure and safe area and shall exercise due and proper care with respect to the storage, custody, use and/or dissemination of such protected PHI.

¹ The privacy rule defines "health oversight agency" as follows: Health oversight agency means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant. Id. at 164.512 (emphasis added).

²The HIPAA Privacy Rule Section 165.512 of the HIPAA privacy rule sets forth "[u]ses and disclosures for which an authorization or opportunity to agree or object [by the patient] is not required." 45 C.F.R. § 165.512.

Among such allowed disclosures are those for "health oversight activities":

(d) Standard: Uses and disclosures for health oversight activities.

(1) Permitted disclosures. A covered entity may disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of: (i) The health care system; (ii) Government benefit programs for which health information is relevant to beneficiary eligibility; (iii) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or (iv) Entities subject to civil rights laws for which health information is necessary for determining compliance. Id. § 164.512(d).

At the end of the administration of this Medical Monitoring Program, as determined by this Court, the Claims Administrator, the third party medical testing administrator, and any third party who is in possession of any of the PHI of said Medical Monitoring Class members, other than primary health care and health testing medical providers and other applicable primary care providers who will maintain the PHI in accordance with HIPAA, shall, within ninety (90) days either return the PHI to the covered entity or destroy the PHI (including all copies made).

With regard to the Property Remediation Class Members, any PHI attained in establishing that any individual is indeed a Property Remediation Class Member shall be subject to all of the restrictions, laws, and guidelines applicable to the maintenance of the PHI for Medical Monitoring Class members as set forth hereinabove.

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:

Stephanie Thacker, Esq.
Allen, Guthrie & Thomas, PLLC
P.O. Box 3394
Charleston, WV 25333-3394
DuPont's Finance Committee Representative

Virginia Buchanan, Esq.
Levin, Papantonio, Thomas, Mitchell,
Rafferty & Proctor, P.A.
P.O. Box 12308
Pensacola, FL 32591
Plaintiffs' Finance Committee Representative

Meredith McCarthy, Esq.
901 W. Main St.
Bridgeport, WV 26330
Guardian Ad Litem

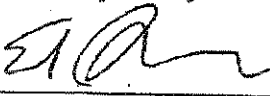

Edgar C. Gentle, III, Esq.
Settlement Claims Office
P.O. Box 257
Spelter, WV 26438
Claims Administrator

This Order Agreed to By:

Stephanie Thacker, Esq.
Allen, Guthrie & Thomas, PLLC
P.O. Box 3394
Charleston, WV 25333-3394
DuPont's Finance Committee
Representative

Virginia Buchanan, Esq.
Levin, Papantonio, Thomas, Mitchell,
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Plaintiffs' Finance Committee Representative

Order Prepared By:

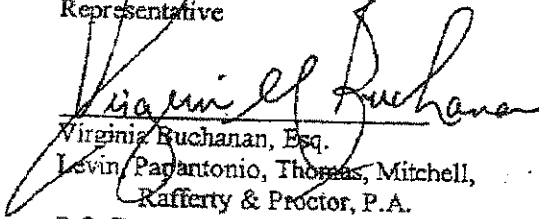
Edgar C. Gentle, III, Claims Administrator
Michael A. Jacks, Esq.
W.Va. Bar No 11044
Gentle, Turner & Sexton
P. O. Box 257
Spelter, WV 26438

ENTER: _____

Thomas A. Bedell, Circuit Judge


This Order Agreed to By:

Stephanie Thacker, Esq.
Allen, Guthrie & Thomas, PLLC
P.O. Box 3394
Charleston, WV 25333-3394
DuPont's Finance Committee
Representative



Virginia Buchanan, Esq.
Levin, Papantonio, Thomas, Mitchell,
Kafferty & Proctor, P.A.
P.O. Box 12308
Pensacola, FL 32591
Plaintiffs' Finance Committee Representative

Order Prepared By:


Edgar C. Gentle, III, Claims Administrator
Michael A. Jacks, Esq.
W.Va. Bar No 11044
Gentle, Turner & Sexton
P. O. Box 257
Spelter, WV 26438

ENTER: _____

Thomas A. Bedell, Circuit Judge

This Order Agreed to By:

Stephanie D. Thacker

Stephanie Thacker, Esq.
Allen, Guthrie & Thomas, PLLC
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Charleston, WV 25333-3394
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Order Prepared By:

Edgar C. Gentle, III, Claims Administrator
Michael A. Jacks, Esq.
W.Va. Bar No 11044
Gentle, Turner & Sexton
P. O. Box 257
Spelter, WV 26438

ENTER: _____

Thomas A. Bedell, Circuit Judge

EXHIBIT B

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,)

CASE NO. 04-C-296-2
 Thomas A. Bedell,
 Circuit Judge

E. I. DuPont DE NEMOURS AND)
 COMPANY, et al.,)

Defendants.)

CONFIDENTIALITY AGREEMENT

I understand that the Circuit Court of Harrison County, West Virginia, in Perrine v. DuPont, Case No. 04-C-296-2 (the "Spelter Case"), has ordered that the identity of Class Members participating in the Spelter Case Medical Monitoring Program and the Property Remediation Class, and their "protected health information" and "individually identifiable health information" ("PHI"), as defined in 45 C.F.R. 160.103 or other information protected by the Privacy Act or the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), or other applicable law, and their PHI, as defined in 45 C.F.R. 160.103, or other information protected by the Privacy Act or HIPAA, or other applicable law, and the details of their medical conditions, histories, or medical testing results, and the payment and/or remediation information regarding specific medical monitoring participants or property remediation participants be kept confidential, and state that I will not reveal this information to anyone except as necessary for conducting work in furtherance of the Medical Monitoring Program or the Property Remediation Program, unless I have express written permission to do otherwise by Judge Thomas A. Bedell or the Claims Administrator. I further understand that if I violate this agreement and pledge of confidentiality, I am subject to being brought before Judge

Bedell for investigation and possible sanction for this breach.

I agree that information about the status of the Medical Monitoring Program generally, or of a specific case in the Medical Monitoring Program, any data pertaining to the Medical Monitoring Program, or any PHI, will not be given to anyone by me unless done in accordance with written procedures of Judge Bedell or the Claims Administrator, in conjunction with the Protective Order, attached hereto as Exhibit A, entered on _____, and in compliance with HIPAA, and other federal and state law.

I agree that information about the status of the Property Remediation Class Members generally, or of a specific case in the Property Remediation Class, or any data pertaining to the Property Remediation Class, will not be given to anyone by me unless done in accordance with written procedures of Judge Bedell or the Claims Administrator.

I agree that PHI may be disclosed without further notice by any covered entity or healthcare provider, party or parties' attorney, or Claims Administrator to:

(1) The Medical Monitoring Class Members themselves, respecting their individual PHI only, the Medical Monitoring Class Members' attorneys, respecting the Medical Monitoring Class Member client's individual PHI only, medical testing or treating physicians, other healthcare providers or laboratories, insurance carriers, or other entities, and any entity performing, medical monitoring or administering medical monitoring services on behalf of the Claims Administrator, insurance carriers, third party medical testing and/or health care administrators, or other entity and/or their employees, agents, or third-party administrators for any of the Class Members involved in the Medical Monitoring Program and in the administration of this Settlement;

(2) In any proceeding with a health oversight agency¹ as permitted under 45 C.F.R. 164.512²; and/or

(3) Pursuant to a subpoena requesting the production of documents or commanding attendance at deposition or trial to disclose the PHI in response to such request or subpoena, with such disclosures being authorized under the privacy regulations issued pursuant to HIPAA. 45 C.F.R. §164.512(e)(1)(i).

This the _____ day of _____, _____.

Signature

Print Name

Witness:

¹
The privacy rule defines "health oversight agency" as follows: Health oversight agency means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant. Id. at 164.512 (emphasis added).

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(i) The health care system; (ii) Government benefit programs for which health information is relevant to beneficiary eligibility; (iii) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or (iv) Entities subject to civil rights laws for which health information is necessary for determining compliance. Id. § 164.512(d).