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10/21/13

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.

ORDER ALLOWING CLAIMS ADMINISTRATOR TO PROVIDE MEDICAL
MONITORING TEST RESULTS COMPILED IN ROUND ONE OF TESTING FOR
CONSENTING CLAIMANTS TO POTENTIAL SCIENTIFIC RESEARCHERS

Presently before the Court is the Claims Administrator's November 22, 2013 Report requesting Court authority to provide the Medical Monitoring test results data compiled in round one of testing for Claimants consenting to the data's use for scientific research to (i) Cheryl Rockwell, PhD, (ii) Miyoung Yoon, PhD, and (iii) Michael T. Kleinman, PhD (collectively the "Potential Researchers"), provided that the Potential Researchers sign and return the Confidentiality Agreement attached in Exhibit B with a Memorandum of explanation.

After a careful review of the Claims Administrator's Report, the Court hereby determines that on October 15, 2013, the Claims Administrator provided the Parties with the Memorandum attached in Exhibit A, which provided the Parties an opportunity to comment or object to sharing the Medical Monitoring test results data compiled in round one of testing for Claimants consenting to the data's use for scientific research in compliance with this Court's Order Permitting the Establishment of a Program Database to Facilitate and Assist in Future Scientific and Medical Research entered on August 24, 2011 (the "Scientific Research Order").

There being no such objections from the Parties, the Claims Administrator's Report is hereby approved, and the Claims Administrator is authorized to share this data to the Potential Researchers,

provided that the Potential Researchers sign and return the Confidentiality Agreement in Exhibit B, which was previously approved by this Court's Final Order Approving Protective Order and Confidentiality Agreement entered on March 3, 2011.

IT IS SO ORDERED.

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

David B. Thomas
James S. Arnold
Thomas Combs & Spann, PLLC
P.O. Box 3824
Charleston, WV 25338-3824

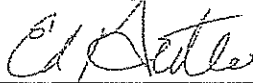
Meredith McCarthy
901 W. Main St.
Bridgeport, WV 26330
Guardian Ad Litem

Virginia Buchanan
Levin, Papantonio, Thomas, Mitchell,
Rafferty & Proctor, P.A.
P.O. Box 12308
Pensacola, FL 32591

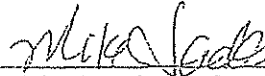
J. Farrest Taylor
Cochran, Cherry, Givens, Smith,
Lane & Taylor, P.C.
163 West Main Street
Dothan, AL 36301

Edgar C. Gentle, III
Michael A. Jacks
Gentle, Turner & Sexton
P. O. Box 257
Spelter, WV 26438
Special Master

Order Prepared By:



Edgar C. Gentle, III
Gentle, Turner, Sexton, Debrosse &
Harbison
P. O. Box 257
Spelter, WV 26438
November 22, 2013



Michael A. Jacks, Esq.
Gentle, Turner, Sexton, Debrosse &
Harbison
W.Va. Bar No 11044
P. O. Box 257
Spelter, WV 26438
November 22, 2013

ENTER:

November 25, 2013

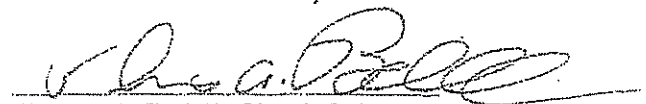

Thomas A. Bedell, Circuit Judge

EXHIBIT A

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
ATTN: EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
C/O SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE
55 B Street
P. O. BOX 257
Spelter, West Virginia 26438
(304) 622-7443
(800) 345-0837
www.perrinedupont.com
perrinedupont@ufandslaw.com

MEMORANDUM

BY E-MAIL
CONFIDENTIAL

TO: Virginia Buchanan, Esq.
David B. Thomas, Esq.
James S. Arnold, Esq.
Meredith McCarthy, Esq.
Mr. Don Brandt
Mr. Randy Brandt

FROM: Edgar C. Gentle, III, Esq.

DATE: October 15, 2013

RE: Perrine v. DuPont Settlement - Interested Scientific Researchers; Our File No. 4609-1 {GG-18}

Dear All:

I hope that you are well.

We have received the attached three (3) written requests (collectively, the "Potential Researchers") for additional information regarding scientific research from:

- (i) Cheryl Rockwell, PhD, Assistant Professor, Department of Pharmacology & Toxicology at Michigan State University;
- (ii) Miyoung Yoon, PhD, Senior Researcher Investigator at the Hamner Institutes for Health Sciences; and

October 15, 2013
Page 2

- (iii) Michael T. Kleinman, PhD, Professor and Co-Director of Air Pollution Health Effects, Department of Medicine, Division of Occupational and Environmental Health Toxicology at the University of California, Irvine.

Pursuant to page 10 of the Court's attached Order Permitting the Establishment of a Program Database to Facilitate and Assist in Future Scientific and Medical Research entered on August 24, 2011 (the "Scientific Research Order"), "requests for such information contained in the database should only be given out after approval from the Claims Administrator, and this approval should be subject to objections by the Defendant."

Therefore, please let me know within two weeks if you have any objections to my providing these three Potential Researchers with the scientific research database that has been compiled to date. Of course, this information will not be provided to the Potential Researchers until they have signed the Confidentiality Agreement.

Thank you for the opportunity to administer this very interesting Settlement.

Yours very truly,



Ed Gentle,
Claims Administrator

ECCIII/pfo
Attachment

cc: (via e-mail)(confidential)(w/attachment)
Terry D. Turner, Jr., Esq.
Diandra S. Debrosse-Zimmermann, Esq.
Katherine A. Harbison, Esq.
Paige F. Osborn, Esq.
Michael A. Jacks, Esq.
William S. ("Buddy") Cox, Esq.
J. Keith Givens, Esq.
McDavid Flowers, Esq.
Farrest Taylor, Esq.
Ned McWilliams, Esq.
Angela Muson, Esq.

Teri Thomas

From: Ed Gentle <escrowagen@aol.com>
Sent: Tuesday, September 10, 2013 2:42 PM
To: Teri Thomas
Subject: Fwd: The Perrine v. DuPont Settlement - Potential Scientific Research with Respect to the Perrine Medical Monitoring Program; Our File No. 4609-1{GG-18}

Print

Sent from my iPad

Begin forwarded message:

From: Cheryl Rockwell <rockwelc@msu.edu>
Date: September 10, 2013, 3:37:35 PM EDT
To: <escrowagen@aol.com>
Subject: Re: The Perrine v. DuPont Settlement - Potential Scientific Research with Respect to the Perrine Medical Monitoring Program; Our File No. 4609-1{GG-18}

Dear Mr. Gentle,

Thank you very much for providing the list of test parameters that were included in the Perrine medical monitoring program. If possible, I would like to proceed to get Court approval to examine the test results in the Scientific Research database. Please let me know what I need to do. Thank you very much for your help with this matter. Sincerely,

Cheryl Rockwell, PhD
Assistant Professor
Dept of Pharmacology & Toxicology
Michigan State University
B-346 Life Sciences Building
1355 Bogue Street
East Lansing, MI 48824
517-884-6692
Rockwelc@msu.edu

From: <escrowagen@aol.com>
Date: Tuesday, September 10, 2013 2:09 PM
To: Cheryl Rockwell <rockwelc@msu.edu>
Subject: The Perrine v. DuPont Settlement - Potential Scientific Research with Respect to the Perrine Medical Monitoring Program; Our File No. 4609-1{GG-18}

Please See Attached in PDF Format

*1/2 page - Mr
dust*

4609-1-58-18

Teri Thomas

From: escrowagen@aol.com
Sent: Wednesday, September 11, 2013 9:29 PM
To: Teri Thomas
Subject: Fw: The Perrine v. DuPont Settlement - Potential Scientific Research with Respect to the Perrine Medical Monitoring Program; Our File No. 4609-1(GG-18)

Print

Sent from my BlackBerry 10 smartphone.

Teri Thomas

From: Miyoung Yoon
Sent: Wednesday, September 11, 2013 8:55 PM
To: escrowagen@aol.com
Subject: RE: The Perrine v. DuPont Settlement - Potential Scientific

MT
duPont
Message

Research with Respect to the Perrine Medical Monitoring Program; Our File
No. 4609-1{GG-18}

4609-1 GG-18

Dear Mr. Gentle,

What I would like to know is that if demographic data such as the distribution of age and sex of the participants, in addition to the ~~list of variables in your Scientific Research Database~~ (I gather this is the information you sent me this time). If you have height, weight, and age when specimens obtained, and information on age at menarche or age at menopause, I would be interested in obtaining the data from you.

With best regards,

Miyoung

From: Miyoung Yoon
Sent: Wednesday, September 11, 2013 3:54 PM
To: 'escrowagen@aol.com'
Subject: RE: The Perrine v. DuPont Settlement - Potential Scientific Research with Respect to the Perrine Medical Monitoring Program; Our File No. 4609-1{GG-18}

Dear Mr. Gentle,

I wanted to see if any demographic information has been/will be collected from the participants and if so, what kind of information would they be.

Best regards,

Miyoung

Miyoung Yoon, Ph.D.
Senior Research Investigator
The Hamner Institutes for Health Sciences
6 Davis Drive, PO Box 12137
Research Triangle Park, NC 27709-2137
Tel: 919-558-1340
mvoon@thehamner.org
<http://www.thehamner.org/scientists/entry/miyoung-voon>

From: escrowagen@aol.com [<mailto:escrowagen@aol.com>]
Sent: Tuesday, September 10, 2013 2:14 PM
To: Miyoung Yoon
Subject: The Perrine v. DuPont Settlement - Potential Scientific Research with Respect to the Perrine Medical Monitoring Program; Our File No. 4609-1{GG-18}

Please See Attached in PDF Format

Subj: RE: The Perrine v. DuPont Settlement - Potential Scientific Research with Respect to the Perrine Medical Monitoring Program; Our File No. 4609-1{GG-18}
Date: 9/11/2013 2:53:45 P.M. Central Daylight Time
From: MYoon@thehamner.org
To: escrowagen@aol.com

Dear Mr. Gentle,

I wanted to see if any demographic information has been/will be collected from the participants and if so, what kind of information would they be.

Best regards,

Miyoung

Miyoung Yoon, Ph.D.
Senior Research Investigator
The Hamner Institutes for Health Sciences
6 Davis Drive, PO Box 12137
Research Triangle Park, NC 27709-2137
Tel: 919-558-1340
mivoon@thehamner.org
<http://www.thehamner.org/scientists/entry/miyoung-yoon>

From: escrowagen@aol.com [mailto:escrowagen@aol.com]
Sent: Tuesday, September 10, 2013 2:14 PM
To: Miyoung Yoon
Subject: The Perrine v. DuPont Settlement - Potential Scientific Research with Respect to the Perrine Medical Monitoring Program; Our File No. 4609-1{GG-18}

Please See Attached in PDF Format

*QCC Project -
Perrine Health is a
win-win for all
Asst
2/ 4609-1 GG-18*

Teri Thomas

From: EscrowAgen@aol.com
Sent: Tuesday, September 24, 2013 9:47 AM
To: Teri Thomas
Subject: Fwd: Letter
Attachments: LetterformMichaelKleinman.pdf

download n print

From: cmullins@gtandslaw.com
To: EscrowAgen@aol.com, kharbison@gtandslaw.com, posborn@gtandslaw.com
CC: lthomas@gtandslaw.com
Sent: 9/24/2013 9:42:58 A.M. Central Daylight Time
Subj: Letter

Good morning,

Please find a letter from Michael Kleinman of the University of California, Irvine.

Thank you,

Christy

Christy Mullins

Gentle Turner Sexton Debrosse & Harbison

Perrine DuPont Claims Office

P.O. Box 257

Spelter, WV 26438

cmullins@gtandslaw.com

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Mc Duff

W. J. W. H.

2/ 9609-180-
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SAN FRANCISCO • SANTA BARBARA • SANTA CRUZ • MERCED

Department of Medicine
Division of Occupational and Environmental Health
Toxicology
100 FRF
Irvine, CA 92697-1825

Michael T. Kleinman, Ph.D.
Professor and Co-Director
Air Pollution Health Effects
Laboratory

Perrine Dupont Settlement Claims Office
C/O Spelter Volunteer Fire Dept. Office
55 B Street
POB 2570
Spelter, West Virginia 26438

Att: Ed Gentle

Dear Mr. Gentle:

I remain interested in the opportunity to do research on heavy metals exposure on data or specimen analyses from Claimant's samples. I am, however assuming that the data base will also contain exposure values or estimates which will be critical for evaluating potential effects of cadmium and arsenic and would also be useful for lead.

It would be my intention to publish depersonalized and aggregated results in the open literature. Also since this is, for me, a novel way of obtaining this type of data, I will have to arrange for approval by the UC Irvine Institutional Review Board for Human Studies. Since the individuals have already consented to providing the results it should be possible for me to conduct my analyses without obtaining separate consent, but I would appreciate your advice on this.

Thank you for your assistance in making these data available.

Sincerely,

Handwritten signature of Michael T. Kleinman in cursive.
Michael T. Kleinman

EXHIBIT B

MEMORANDUM

TO: Edgar C. Gentle, III, Esq.

FROM: Paige F. Osborn, Esq.

DATE: November 12, 2013

RE: Perrine DuPont Medical Monitoring Program; Potential Researchers; Our
File No. 4609-1{DD-25}

Ed:

Attached is the revised memorandum to the Parties, report to the Court and proposed Order regarding approval to provide Medical Monitoring test results data compiled in round one of testing for consenting Claimants to the Potential Researchers.

I reviewed the Confidentiality Agreement that was approved in the Final Order Approving Protective Order and Confidentiality Agreement entered on March 3, 2011 (the "March 2011 Order"). The March 2011 Order is Exhibit A to the Confidentiality Agreement.

The Confidentiality Agreement bars the disclosure of individually identifiable health information ("PHI") respecting both the Medical Monitoring Program and the Property Remediation Program.

The Confidentiality Agreement restricts the disclosure of claimant PHI, including medical conditions, histories, medical testing results, or any data pertaining to the Medical Monitoring Program, unless there is express written permission to do otherwise by Judge Thomas A. Bedell, which we will have with the approval of the attached draft Order.

Although the data is being compiled without PHI, so that the Potential Researchers should not receive any PHI, the attached Confidentiality Agreement protects against the Potential Researchers sharing any claimant PHI or other data they receive pertaining to Medical Monitoring Program.

The Confidentiality Agreement was drafted and approved to work in various situations for various parties. It also includes confidentiality of information regarding the Property Remediation Program, which the Potential Researchers may also be interested in at some point.

I believe the Confidentiality Agreement is appropriate for the Potential Researchers to ensure that the PHI and other protected information related to Medical Monitoring and Property Remediation is kept confidential during the research process. At the point that a Potential Researcher wants to report or publish any findings, the findings should be provided to the Court for approval prior to any dissemination of any studies or findings.

Please let me know if you have any questions.

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,)

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

Defendants.)

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

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 March 3, 2011, 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:

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).

STATE OF WEST VIRGINIA
COUNTY OF HARRISON, TO-WIT

I, Donald L. Kopp II, Clerk of the Fifteenth Judicial Circuit and the 18th
Family Court Circuit of Harrison County, West Virginia, hereby certify the
foregoing to be a true copy of the ORDER entered in the above styled action
on the 25 day of November, 2013.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix
the Seal of the Court this 25 day of November, 2013.

Donald L. Kopp II
Fifteenth Judicial Circuit & 18th Family Court
Circuit Clerk
Harrison County, West Virginia