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Mail  
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10-20-11

October 19, 2011

*Via Telefacsimile*

The Honorable Donald Kopp, Clerk  
Circuit Court of Harrison County  
301 West Main Street  
Clarksburg, WV 26301

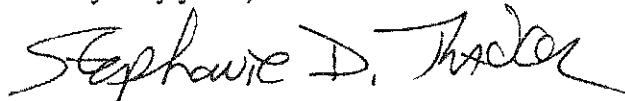
Re: Perrine, et al. v. E. I. du Pont de Nemours and Company, et al.  
Civil Action No. 04-C-296-2 (Cir. Ct. of Harrison County, W. Va.)

Dear Mr. Kopp:

Enclosed for filing in connection with the referenced civil action, please find "Submission of DuPont Objecting to the Guardian *Ad Litem* and Class Counsel's Proposed Edits to the Claims Administrator's Proposed Order Regarding the October 17, 2011 Hearing." Copies of the foregoing have this day been properly served.

Thank you for your attention to this matter.

Very truly yours,



STEPHANIE D. THACKER

SDT/klm

Enclosure

c/enc.: The Honorable Thomas A. Bedell (Via Telefacsimile and U. S. Mail)  
Meredith McCarthy, Esq. (Via Electronic and U. S. Mail)  
Perry B. Jones, Esq. (Via U. S. Mail)  
Virginia Buchanan, Esq. (Via Electronic and U. S. Mail)  
Edgar C. Gentle, III (Via Electronic and U. S. Mail)

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.

CIVIL ACTION NO. 04-C-296-2  
(Judge Thomas A. Bedell)

E.I. DU PONT DE NEMOURS AND COMPANY,  
a Delaware corporation doing business in West  
Virginia, MEADOWBROOK CORPORATION, a  
dissolved West Virginia corporation,  
MATTHEISSEN & HEGELER ZINC  
COMPANY, INC., a dissolved Illinois corporation  
formerly doing business in West Virginia,  
NUZUM TRUCKING COMPANY,  
a West Virginia corporation,  
T. L. DIAMOND & COMPANY, INC., a New York  
corporation doing business in West Virginia, and  
JOSEPH PAUSHEL, an individual residing  
in West Virginia,

Defendants.

**SUBMISSION OF DUPONT OBJECTING TO THE GUARDIAN *AD LITEM* AND  
CLASS COUNSEL'S PROPOSED EDITS TO THE CLAIMS ADMINISTRATOR'S  
PROPOSED ORDER REGARDING THE OCTOBER 17, 2011 HEARING**

Now comes Defendant E.I. du Pont de Nemours and Company ("DuPont"), by counsel, and submits this objection to the October 19, 2011 submission of the Guardian *Ad Litem* ("GAL") and Class Counsel which proposes edited language to Alternative B at page 5 of the Claims Administrator's proposed Order regarding the October 17, 2011 hearing in connection with the Medical Monitoring Program. The GAL and Class counsel suggest edits that will

include reference to Dr. McGuire and Dr. Wertz in attempt to support baseline CT scanning. DuPont objects to the proposed edited language for the following reasons:

1. The November 19, 1010 Memorandum of Understanding (“MOU”) agreed to by the Parties is quite clear that CT scans are not a part of the medical monitoring program, and, as such, are not to be routine. (See, par. 3(c) of MOU).

2. The Parties specifically negotiated Dr. Wertz’ opinion as to CT scans out of the MOU. Rather, as clearly set forth in the MOU, CT scans are not to be conducted as a matter of routine; baseline or otherwise.

3. Although the GAL and Class Counsel place weight on Drs. McGuire and Wertz in their proposed edited language in an effort to support CT scans that are outside the bounds of the MOU, neither Dr. McGuire nor Dr. Wertz appeared at the October 17, 2011 hearing to subject themselves to cross-examination, despite the fact that the Court made an accommodation for appearances via telephone and the fact that Dr. Wertz practices less than 40 miles from the Harrison County Courthouse. Therefore, the opinions of Drs. McGuire and Wertz should be stricken, and certainly should not be made a part of the proposed Order as a basis for the Court’s decision.

4. If the Court is nonetheless inclined to include such proposed edited language in the proposed Order as requested by the GAL and Class counsel, then DuPont submits that Alternative A on page 4 of the proposed Order should likewise be edited to include the opinion of Dr. Jubal Watts, who did appear and did testify at the October 17, 2011 hearing. Specifically, Dr. Watts, who has actually been involved in the National Lung Screening Trials (unlike Dr. McGuire or Dr. Wertz), testified that baseline CT screening as proposed by the GAL and Class

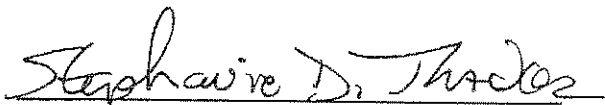
counsel *will actually harm more Class members than it could benefit* and that no recognized authority would ever suggest baseline CT scanning in the Class population as a whole.

5. Rather, as per the MOU, the decision as to whether a CT scan is appropriate is to be made by competent physicians only as diagnostically medically necessary as relevant to possible exposure to the heavy metals at issue in the litigation. This should be done on an individual case by case basis with a full recognition of the risks involved.

E.I. DU PONT DE NEMOURS AND CO.,

*Defendant,*

BY COUNSEL:



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*Counsel for E.I. du Pont de Nemours and Company*

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.

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

**Defendants.**

**CIVIL ACTION NO. 04-C-296-2**

**Honorable Thomas A. Bedell**

**CERTIFICATE OF SERVICE**


I, Stephanie D. Thacker, counsel for Defendant E.I. du Pont de Nemours, hereby certify that service of the foregoing "Submission of DuPont Objecting to the Guardian *Ad Litem* and Class Counsel's Proposed Edits to the Claims Administrator's Proposed Order Regarding the October 17, 2011 Hearing" has been made upon the parties herein by placing a true copy in the U. S. Mail, postage prepaid, this 19<sup>th</sup> day of October, 2011, addressed as follows:

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