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J. STEWART

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JUL 16 2008
FIRST JUDICIAL DISTRICT OF PA
USER I.D.:

IN RE

TRASYLOL PRODUCTS LIABILITY LITIGATION

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY

JUNE TERM, 2008

NO. 5229

CASE MANAGEMENT ORDER NO. 1
FOR TRASYLOL PERSONAL INJURY CASES

It is the goal of this Court to secure the just, speedy and inexpensive determination of each Trasylol personal injury case now pending or hereafter filed in the Court of Common Pleas, Philadelphia County, Pennsylvania and, to the extent reasonable, eliminate duplication of effort, prevent unnecessary paperwork and promote judicial economy.

In order to achieve these objectives, the following Case Management Order No. 1 is entered this 15th day of July, 2008, for all individual personal injury Trasylol cases that are presently pending or hereafter filed in the Philadelphia County Court of Common Pleas. This Order shall govern each Trasylol personal injury case now pending or hereafter filed in the Court of Common Pleas, Philadelphia County, Pennsylvania ("Coordinated Actions"). This Order applies to all plaintiffs in the Coordinated Actions, and to Defendants Bayer Corporation; Bayer HealthCare Pharmaceuticals Inc. (hereinafter "BHCP"), as successor to Bayer Pharmaceuticals Corporation; Bayer HealthCare LLC; Bayer AG; and Bayer HealthCare AG (hereinafter "BHCAG") in any of the Coordinated Actions in which each such defendant was properly served. The coordinated procedures set forth in this Order are without prejudice to any party's right to contest further coordination or consolidation of these actions.

I. MASTER "TRASYLOL" DOCKET.

The Court has established a Master Trasylol Docket at June Term, 2008, No. 5229 This docket number has been established as a depository for the filing of motions, orders

and other documents common to the Trasylol personal injury cases. Once a motion, order or other document is filed in this docket and copies are produced to all other interested counsel involved in the Coordinated Actions, the motion and order or other document may be incorporated by reference either orally before the Court or within another properly filed motion, order or other document.

II. APPOINTMENT OF LIAISON COUNSEL.

A) The following attorneys are hereby appointed as liaison counsel:

Plaintiffs' Liaison Counsel:

James R. Ronca
Sol Weiss
Anapol, Schwartz, Weiss, Cohan, Feldman & Smalley, PC
1710 Spruce Street
Philadelphia, PA 19103

Defendants' Liaison Counsel:

Albert G. Bixler
Eckert Seamans Cherin & Mellott, LLC
Two Liberty Place
50 South 16th Street, 22nd Floor
Philadelphia, PA 19102

B) Privileges Preserved. No communications among plaintiffs' Counsel or among defendants' Counsel shall be taken as a waiver of any privilege or protection to which they would otherwise be entitled.

III. PLEADING ISSUES.

A) Master Long Form Complaint. On or before July 11, 2008, plaintiffs shall file in this Court, and serve upon each named defendant in the manner set forth in this Order, a Master Long Form Complaint ("Master Complaint"), naming as defendants Bayer Corporation, BHCP and BHCAG. The Master Complaint shall contain allegations that would be suitable for adoption by reference in individual cases. The Master Complaint shall not constitute the

inception of a new "case or controversy" in this Court and shall not supersede or render moot the pending separate actions that were filed in this Court. The filing and service of the Master Complaint does not toll any applicable statute of limitations as to any individual plaintiff, and does not relieve any individual plaintiff of the requirement to perfect service of process of his or her Short Form Complaint. The counts of the Master Complaint are not deemed automatically included in any particular case.

B) Master Answer and Master Set of Preliminary Objections.

1) Within sixty (60) days after the filing of the Master Complaint, each defendant named in the Master Complaint shall file a Master Answer or Master Set of Preliminary Objections in response to the Master Complaint. The filing by a defendant of a Master Answer does not preclude the filing of preliminary objections or other motions in any particular case at other times, as appropriate.

2) Plaintiffs shall respond to defendants' preliminary objections within thirty (30) days of service of those preliminary objections. Plaintiffs' response to the preliminary objections may include the filing of an amended Master Complaint as of course within thirty (30) days after service of the preliminary objections. If plaintiffs timely file an amended Master Complaint, the preliminary objections to the original Master Complaint shall be deemed moot.

3) Except in the circumstances of an amendment to the Master Complaint which moots the defendants' preliminary objections, defendants shall file their reply brief in support of preliminary objections within fourteen (14) days of service of plaintiffs' response.

4) The Court will rule after hearing oral argument on the preliminary objections and that ruling will be binding for all individual personal injury Trasylol cases pending in Philadelphia County Common Pleas Court at the time of the ruling.

5) If preliminary objections are granted to one or more counts in the Master Complaint, plaintiffs, if so ordered, shall file a conforming Amended Master Complaint within thirty (30) days of the Order granting the preliminary objections.

6) In the event that an Amended Master Complaint is filed, defendants shall have thirty (30) days from the filing of the Amended Master Complaint to file a responsive pleading; or, if no Amended Master Complaint need be filed, defendants shall have thirty (30) days from the Order ~~denying~~ overruling preliminary objections to file a Master Answer.

7) If New Matter is pleaded, such New Matter will be deemed denied, and plaintiffs are not required to file any responsive pleadings to defendants' New Matter.

C) Short-Form Complaints.

1) All cases filed in these coordinated proceedings after the date of the filing of the Master Complaint shall be instituted by the filing of a Writ of Summons or a Short-Form Complaint. The Short-Form Complaint shall indicate those counts from the Master Complaint that are being asserted in the individual case.

2) If suit is instituted by a Writ of Summons, any named defendant may file a rule to plead and, if such is filed, such rule shall apply to the benefit of all named defendants. If a rule to plead is issued, plaintiffs shall file a Short-Form Complaint in accordance with the rule.

3) Defendants shall have thirty (30) days from the date of service of the Short-Form Complaint or thirty (30) days from the date of the Court's ruling on the preliminary objections to the Master Complaint, whichever is later, to file preliminary objections to the Short-Form Complaint.

4) Defendants shall not file preliminary objections challenging claims as to which preliminary objections to the Master Complaint have previously been denied.

5) Plaintiffs shall then have thirty (30) days from the date of service thereof to file a response to the preliminary objections.

6) The Court may thereafter schedule oral argument on the preliminary objections after which a ruling shall issue.

7) If the Court's ruling on preliminary objections to the Short-Form Complaint does not provide for the filing of an Amended Short-Form Complaint, the remaining allegations of the Short-Form Complaint shall be deemed denied, and defendants are not required to file answers to the Short-Form Complaint. An entry of appearance shall constitute a denial of all allegations in the Short-Form Complaint and an assertion of all affirmative defenses.

8) If any of the Court's rulings permit the plaintiffs to file an Amended Short-Form Complaint, defendants shall be afforded thirty (30) days after service of an Amended Short-Form Complaint in which to file a responsive pleading to the Amended Short-Form Complaint.

9) Defendants are not required to file answers to Short-Form Complaints. An entry of appearance shall constitute a denial of all allegations in the Short-Form Complaint and an assertion of all New Matter that are included in the defendants' Master

Answer. This paragraph does not preclude the filing of preliminary objections or other motions in any particular case at other times, as appropriate.

IV. SERVICE OF PROCESS.

A) Waiver of Service of Process. To eliminate disputes over service of process, to reduce the expense of such service, and, in the case of BHCAG, to avoid the need for translation of complaints into German and to avoid the need to follow the procedures for service on German companies under applicable treaties and conventions, Defendants Bayer Corporation, BHCP and BHCAG have agreed to waive the normal legal requirements for service of process in the Coordinated Actions. Instead, Bayer Corporation, BHCP and BHCAG have agreed to accept service of process for Trasylol products liability cases filed in the Philadelphia Court of Common Pleas through service, by registered mail, return receipt requested, upon the following:

For Bayer Corporation and BHCP:

Douglas A. Pearson, Esq.
100 Bayer Road, Building 14
Pittsburgh, PA 15205-9741

For BHCAG:

Alexander Bey, Esq.
General Counsel
Bayer HealthCare AG
Law and Patents Department
51368 Leverkusen
GERMANY

A copy of each notice transmitted to any defendant in the foregoing manner shall be provided to Liaison Counsel for defendants. Service will be effective only if addressed as above. General mailing to any defendant will not be sufficient to effect service. Service will be effective ten (10) days after mailing in accordance with this Section. The foregoing procedure shall apply to Trasylol products liability cases filed in the Philadelphia Court of Common Pleas

and not to any other litigation. Defendants reserve all other rights available to them under federal or state law and under applicable treaties and conventions.

V. WRITTEN DISCOVERY.

A) Required Disclosures by Plaintiffs.

1) By September 5, 2008, or within sixty (60) days of the date on which an action is commenced by Writ of Summons or the filing of a Complaint, whichever is later, each plaintiff who is subject to this Order shall serve defendants in the action brought by such person with:

(a) A completed Fact Sheet in the form attached hereto as Exhibit A. The Fact Sheet shall include a completed Affidavit (as described in 42 Pa. C.S.A. § 102) attesting that the information contained therein is true and correct to the best of the plaintiff's knowledge, information and belief formed after due diligence and reasonable inquiry.

(b) Authorizations for the release of records in the form attached hereto as Exhibit B. Plaintiffs shall provide addressed authorizations for each health care provider identified in plaintiff's Fact Sheet.

(i) Plaintiffs shall serve undated authorizations.

(ii) Plaintiffs' service of authorizations constitutes permission for defendants to date (and where applicable, re-date) authorizations before sending to healthcare providers.

(c) Copies of all documents subject to the requests for production contained in the Fact Sheet which are in the possession of plaintiffs or their counsel.

(d) In addition to the addressed authorizations described above, plaintiff's counsel shall also maintain in their file unaddressed, executed authorizations. Plaintiff's counsel shall provide executed authorizations to defendants' counsel within fourteen (14) days of a request for authorizations. Defendants' use of authorizations provided by plaintiffs pursuant to Section V.A.1(b) above and this Section V.A.1(d) shall be subject to the provisions of Section V.B below.

2) *Fact Sheets as Interrogatories and Requests for Productions.* The plaintiffs' Fact Sheets which plaintiffs are required to answer are a convenient form of propounding interrogatories and requests for production of documents. The completed fact sheets shall be considered interrogatory answers pursuant to Pa. R. Civ. P. 4006 and as responses pursuant to Pa. R. Civ. P. 4009.12 to requests for production, and are governed by the standards applicable to written discovery under these rules. The questions and requests for production contained in the Fact Sheet are non-objectionable and shall be answered without objection. This section does not prohibit a plaintiff from withholding or redacting information based upon a recognized privilege. If a plaintiff withholds or redacts any information on the basis of privilege, he or she shall provide defendants with a privilege log pursuant to Section V.F.7 below. In the event that a dispute arises concerning the completeness or adequacy of a plaintiff's response to any request contained in the Fact Sheet, this Section shall not prohibit the plaintiff from asserting that his or her response is adequate.

B) Defendants' Discovery of Documents from Third Parties.

1) *Defendants' Procedure to Obtain Records from Third Parties.* Defendants may request plaintiffs' medical records, employment records, disability and workers compensation records, social security records, insurance records, educational records and/or tax records (in appropriate cases) from third parties through a record copy service. Unless a plaintiff has waived this review period, information specifying each such request will be provided to plaintiff's counsel who will have twenty (20) days from the date of receipt of such information in which to notify defendants' counsel and the record copy service of any objection to production of the records to defendants. If no such objection is made, production from the record copy service to defendants shall occur forthwith. If an objection is made, counsel shall confer concerning that objection, and if the objection cannot be resolved, plaintiffs shall file a motion for a protective order to preclude the discovery of all or part of the records requested. That motion shall be filed no later than ten (10) days after the parties have conferred or reasonable attempts at conferring have failed. If said motion is filed, the record copy service will not produce to defendants a copy of the records subject to the request to which an objection has been made until such time as the motion is resolved. If no such motion is filed within the time provided herein, the record copy service shall produce the records to defendants. Plaintiffs may obtain their own copy of the same from the record copy service upon payment of the reasonable costs of copying such documents.

2) *Defendants' Use of Authorizations.* Defendants may not use authorizations except in accordance with this Order. The parties may subpoena records from any third party pursuant to the Pennsylvania Rules of Civil Procedure. Any party may waive the notice of subpoena provisions of the Pennsylvania Rules, either in the Fact

Sheet or otherwise in writing. If there is such a waiver, the subpoena may be served without the time period allowed for objections.

C) Document Production by Defendants.

1) With respect to each of the document productions by BHCP and BHCAG described below in Sections V.C.2-9, the producing defendants shall provide plaintiffs with a statement consistent with Section VIII.C.1 of Pretrial Order No. 4 Relating to Case Management entered on May 22, 2008 by the United States District Court for the Southern District of Florida In Re Trasylol Product Liability Litigation – MDL-1928 (Case No. 1:08-MD-01928).

2) By May 15, 2008, BHCP shall complete the production to plaintiffs of the following non-privileged, discoverable Trasylol-related documents:

(a) Hard copy (paper) and Electronically Stored Information ("ESI") of 28 present or former employees who have or had Trasylol-related responsibilities. BHCP has provided plaintiffs with a list of the names and titles of these 28 employees. Present and former employees' hard-copy (paper) documents and ESI productions will be made, as applicable, and available, from paper files maintained by the individual, the hard drive of the individual's personal computer, the individual's Lotus Notes e-mail file, the individual's home share file on file share servers and other media (CDs or DVDs) on which the individual has stored ESI (hereinafter "Personal File Materials"); for each of the 28 present or former employees referred to herein, BHCP shall within sixty (60) days after the entry of this Order provide to plaintiffs (i) the individual's resume (if available) or (if the resume is not available) a description of the individual's

job title and departmental associations; (ii) the time period of the individual's Trasylol-related responsibilities; and (iii) the individual's employer if the person is currently employed by a defendant and, if not, the individual's last known address.

(b) Hard copy (paper) documents or ESI from the following databases and files:

(i) Trasylol portion of the Goldmine database;

(ii) Trasylol portion of the Faxback database;

(iii) Investigational New Drug Application, New Drug Application and Supplemental New Drug Applications for Trasylol;

(iv) Regulatory Affairs department correspondence/contact files regarding communications and contacts with the FDA concerning Trasylol;

(v) Trasylol Resource Center database;

(vi) www.trasylol.com website;

(vii) Promotional and marketing materials for Trasylol.

3) Within sixty (60) days after the entry of this Order, BHCP shall produce to plaintiffs (a) published and unpublished reports of Trasylol preclinical, clinical and epidemiological studies; (b) document retention policies that relate to Trasylol-related documents; and (c) organizational charts.

4) Upon completion of and to supplement the production of documents described above in Section VC.2, BHCP will produce on a rolling basis at forty-five (45) day intervals, the 2007 Lotus Notes e-mail files not previously produced up to November

30, 2007 for those present or former employees referred to in Section V.C.2 who were still employed in 2007. These 2007 Lotus Notes e-mail files shall hereinafter be considered part of the individual's Personal File Materials for purposes of this Order.

5) On a rolling basis following completion of the production of documents described above in Section V.C.4, and continuing at intervals of forty-five (45) days thereafter, BHCAG shall produce to plaintiffs the following non-privileged, discoverable Trasylol-related documents:

(a) hard-copy (paper) documents and ESI of twenty-eight (28) present or former employees who have or had Trasylol-related responsibilities. Plaintiffs have been provided with a list of the names and titles of the twenty-eight (28) employees referred to above. Present and former employees' hard copy (paper) documents and ESI productions will be made, as applicable, and available, from their Personal File Materials;

(b) The Trasylol portion of the BHCAG regulatory affairs tracking database;

(c) The Trasylol portion of BHCAG's global regulatory affairs labeling database, including data regarding Trasylol company core data sheets;

(d) Trasylol periodic safety update reports ("PSURs") and other Trasylol safety update reports;

(e) Trasylol-related meeting minutes of, and presentations to, the International Product Development Committee and successor committees;

(f) Trasylol Adverse Event Data from the Clintrace database; and

(g) Trasylol investigator's brochures.

6) Upon completion of and to supplement the production of documents described above in Section V.C.5, BHCAG will produce on a rolling basis at forty-five (45) day intervals, the 2007 Lotus Notes e-mail files not previously produced up to November 30, 2007 for those present or former employees referred to in Section V.C.5 who were still employed in 2007. These 2007 Lotus Notes e-mail files shall hereinafter be considered part of the individual's Personal File Materials for purposes of this Order.

7) As promptly as reasonably possible after the completion of the production provided for in V.C.6, BHCAG will produce on a rolling basis at forty-five (45) day intervals, to the extent discoverable and non-privileged, its group share files related to Trasylol.

8) Following the completion of the production of the documents described above in Section V.C.7, BHCP will produce to plaintiffs the following non-privileged, discoverable Trasylol-related documents on a rolling basis at forty-five (45) day intervals:

(a) The Trasylol portion of the Q&A adverse event database;

(b) The hard copy files of Trasylol-related adverse event reports maintained by BHCP's drug safety department;

(c) Trasylol-related materials used for training of sales representatives;

(d) Trasylol package inserts;

(e) Trasylol Resource Center Discussion database;

(f) The Trasylol portion of the Scientific Affairs Resource Center database;

(g) Trasylol Dear Healthcare Provider Letters;

(h) Exemplars of Trasylol advertisements;

(i) Records of sales calls made to physicians who prescribed or administered Trasylol to plaintiffs;

(j) Tangible items regarding Trasylol, if any, provided to physicians who prescribed or administered Trasylol to plaintiffs;

(k) Exemplars of Trasylol-related items that included warnings that sales representatives provided to physicians;

(l) Exemplars of Trasylol-related materials, if any, provided to physicians for use in speeches;

(m) Documents recording budgets for the promotion, advertisements, or marketing of Trasylol;

(n) Documents reflecting the number of patients to whom Trasylol has been administered;

(o) Documents related to patents or patent applications for Trasylol, if any; and

(p) Relevant portions of minutes of meetings of Bayer Corporation's, BHCP's and BPC's board of directors, if any.

9) Within a reasonable time after receipt of identifying information from a plaintiff as part of Fact Sheet responses, BHCP will produce to that plaintiff discoverable, Trasylol-related documents from the files of any Bayer sales representative who had contacts with the physician(s) who prescribed or administered Trasylol to that plaintiff or plaintiff's decedent.

10) In light of the broad scope and extraordinarily voluminous nature of the above-described document production by BHCP and BHCAG, the parties acknowledge their joint interest in avoiding the substantial expansion of the defendants' document production in the Trasylol cases. Nevertheless, plaintiffs retain the right to serve upon defendants focused, limited requests for the production of additional documents, including the Personal File Materials of additional Bayer personnel as well as documents from non-employee-specific sources. Except for the sources of documents specifically set forth in Sections V.C.1-9, defendants may object to the production of documents that may be requested by plaintiffs.

11) Defendants agree that, in the event that defendants produce any documents or materials in another Trasylol products liability lawsuit and those documents or materials have not been produced in these coordinated proceedings, defendants will produce such documents or materials in these proceedings subject to any and all objections to production on the grounds of relevance and/or any applicable privilege or work product protection.

12) Defendants shall be required to produce documents only to plaintiffs' Liaison Counsel, except for case specific documents which shall only be produced by defendants to counsel of record for the individual plaintiff. Plaintiffs' Liaison Counsel may provide copies of documents produced by a defendant only to any plaintiff in these Coordinated Actions (i) who has filed an individual action against the specific defendant by which the document production is made, and served such defendant with process in the individual action, and (ii) who is subject to the Protective Order for confidential information that is appended hereto as Exhibit C. Defendants will produce documents to

plaintiffs' Liaison Counsel in accordance with Section V.D below. Subject to the immediately preceding restrictions on Liaison Counsel's ability to provide copies of such documents to others, plaintiffs' Liaison Counsel's only obligation with regard to the distribution of such documents will be to make them available to plaintiffs in the form in which plaintiffs' Liaison Counsel received them from defendants.

D) Document Production Protocol.

1) The Parties will produce paper and electronic documents in single-page Tagged Image File Format (".tiff format"). Document productions will be accompanied by a load file in iPro format. The load file will provide the Bates number attachment range for email or other documents containing attachments. For documents that do not contain redactions, the producing party will produce an extracted text file for electronic documents and an Optical Character Recognition ("OCR") text file for imaged paper documents. For documents that contain redactions, the producing party will provide an OCR text file for unredacted portions of such documents.

2) Each page of a produced document will contain a legible, unique identification number ("Bates number") and confidentiality notice, where applicable, which will be placed on the page image in a manner that does not conceal or interfere with any information contained on the page. No other stamp or information will be placed on a document other than Bates number, confidentiality notice, and any redactions. This provision does not apply to databases produced in native electronic format.

3) Document productions will be made on CD, DVD, or hard drive. If a production is provided on a hard drive, the receiving party will return the hard drive to

the producing party within a reasonable time after receipt and downloading of the information and document images contained thereon.

4) Objective coding and Metadata.

(a) Defendants will provide objective coding information as described below with each production. Defendants may review and, where necessary, revise or redact objective coding if it contains privileged or work product information.

(b) Defendants will provide the following coding information for electronic documents:

(i) custodian or source

(ii) starting and ending production number

(iii) electronic document type (e.g. word processing, email, spreadsheet, etc.)

(iv) date (date-sent for e-mail; date-created and date-last-modified for non-email electronic documents)

(v) title (subject line for e-mail; file name or title on face of document for non-email electronic documents)

(vi) author(s)

(vii) recipient(s) (for email)

(viii) cc(s) (for email)

(ix) bcc(s) (for email)

(c) Defendants will provide the following coding information for paper documents if defendants have created such information for their own use with respect to this litigation:

(i) custodian or source

(ii) starting and ending production number

(iii) document type (e.g. report, email, letter, article, etc.)

(iv) date (if determinable from face of document)

(v) title (if determinable from face of document)

(vi) author(s)

(vii) recipient(s)

(viii) cc(s)

(ix) bcc(s)

(d) To the extent that plaintiffs produce electronic documents and/or create coding information for paper documents for plaintiffs' own use, plaintiffs will provide objective coding in the format as set forth in paragraphs (b) and (c) above. Plaintiffs may review and, where necessary, revise or redact objective coding if it contains privileged or work product information.

(e) With respect to objective coding information provided for paper documents, the parties will make reasonable efforts to provide accurate information with respect to subparagraphs (c)(iii) through (c)(ix), but the parties do not certify the reliability, accuracy, or completeness of objective coding as to any particular paper document. Objective coding of paper documents is not

evidence and may not be used by any party for any purpose other than discovery and document management in this litigation.

(f) Objective coding information for electronic documents, as set forth in subparagraphs (b)(iii) through (b)(ix), will be derived from metadata associated with the document. However, the parties understand that metadata differs between types of electronic documents and that particular electronic documents may not contain metadata for all of the fields described in subparagraphs (b)(iii) through (b)(ix). Other than information described in subparagraphs (b)(iii) through (b)(ix), defendants are not required to provide other metadata that may be associated with an electronic document.

5) Redaction of Documents.

(a) Defendants may redact documents that contain (i) information relating to Bayer products other than Trasylol or similar Bayer products investigated or developed to reduce blood loss or blood transfusion requirements in any surgery; (ii) information that is subject to a claim of privilege; (iii) information specifying the chemical structure or composition of or the manufacturing, production or quality control processes for Trasylol; (iv) information that is private, such as social security numbers, dates of birth, or names/addresses of patients involved in clinical studies; and (v) information which defendants are not permitted to disclose under FDA regulations, specifically including any information that identifies a patient who is the subject of an adverse event report or that identifies any reporter of an adverse event other than defendants' employees.

(b) In addition to the coding information described above, defendants will provide for each redacted document an additional coding field which describes the reason(s) for any redaction on the document, e.g. "other product," "privacy," "privilege."

(c) Plaintiffs retain the right to move to compel production of redacted information, and defendants retain the right to object. Any failure to redact information described above does not waive any right to claims of privilege or privacy, or any objection including relevancy, as to the specific document or any other document that is or will be produced.

6) *Databases.* Prior to production of any database not already identified for production in this CMO, the parties will meet and confer regarding the discoverability and feasibility of any request for production of a database including the form and content of any such production. Defendants will make reasonable effort to produce Trasylol-related data from electronic databases that operate with generally available software in native database format (including data and schema) where practical and feasible. Where such production is not practical or feasible, the parties will confer upon an appropriate form of production. The Court's assistance regarding the discoverability, form, and scope of production of data may only be sought after the parties have failed to reach agreement after good faith discussion.

7) *Privilege Logs.* The parties will produce privilege logs in Excel format or a similar electronic format that follows text searching and organization of data. A party will produce a privilege log within ninety (90) days after its first production of

documents for which privilege is asserted to apply, and within the same time period following any subsequent or rolling productions.

(a) The parties' privilege logs shall include the following information:

(i) custodian or source

(ii) date

(iii) author(s)

(iv) for documents produced, but redacted on the ground of privilege, the starting and ending production number;

(v) recipient(s) (for email and hard-copy communications such as letters and internal memoranda)

(vi) cc(s) (for email and hard-copy communications such as letters and internal memoranda)

(vii) bcc(s) (for email and hard-copy communications such as letters and internal memoranda)

(viii) specification of the privilege claimed

(ix) a description of the document and the basis for the privilege claim.

E) Inadvertent Production of Documents.

1) Inadvertent production of documents (hereinafter "Inadvertently Produced Documents") subject to work-product immunity, the attorney-client privilege, or other legal privilege protecting information from discovery shall not constitute a waiver of the immunity or privilege, provided that the producing party shall notify the receiving party in writing within fourteen (14) days of discovery of the inadvertent production. If such

notification is made, such Inadvertently Produced Documents and all copies thereof shall, upon request, be returned to the producing party, all notes or other work product of the receiving party reflecting the contents of such materials shall be destroyed, and such returned or destroyed material shall be deleted from any litigation-support or other database. If the receiving party elects to file a motion pursuant Section V.E.3 below, the receiving party, subject to the requirements of Section V.E.2 below, may retain possession of the Inadvertently Produced Documents as well as any notes or other work product of the receiving party reflecting the contents of such materials pending the resolution by the court of the Section V.E.3 motion. If the receiving party's Section V.E.3 motion is denied, the receiving party shall promptly comply with the immediately preceding provisions of this Section V.E.1.

2) No use shall be made of such Inadvertently Produced Documents, including during depositions or at trial, nor shall they be disclosed to anyone who was not given access to them prior to the request to return or destroy them.

3) The party receiving such Inadvertently Produced Documents may, after receipt of the producing party's notice of inadvertent production, move the Court to dispute the claim of privilege or immunity, but the motion shall not assert as a ground therefore the fact or circumstances of the inadvertent production.

F) Costs of Production. While each party expressly reserves its right to seek costs relating to this litigation, including the costs of producing documents and reasonably accessible electronic documents, initially each party will bear the costs to process, review and produce its own documents and reasonably accessible ESI.

G) Protective Order for Confidential Information. The parties have submitted a joint proposed Protective Order (Exhibit C) to regulate the use, disclosure or dissemination of confidential documents or information of the parties or third parties that may be produced during this litigation. The Court will enter the Protective Order to supplement the terms of this Case Management Order.

VI. DEPOSITIONS OF DEFENDANTS' PERSONNEL.

A) Plaintiffs may not issue notices for the depositions of present or former employees of Defendant BHCP or, if appropriate, of other U.S. Bayer entities until after (1) July 1, 2008 and (2) production of the individual's Personal File Materials pursuant to the procedures described above. Defendant BHCP shall provide a formal written notice (email acceptable) advising plaintiffs when the Personal File Materials of any such current or former employee have been produced. Plaintiffs may not take the deposition of any such individual until at least forty-five (45) days after the deposition notice has been served on the defendants, absent agreement of the parties or upon order of the Court.

B) Plaintiffs may not issue notices for the depositions of present or former employees of BHCAG, or if appropriate, other German Bayer entities until after (1) October 1, 2008 and (2) production of the individual's Personal File Materials pursuant to the procedures described above. Defendant BHCAG shall provide a formal written notice (email acceptable) advising plaintiffs when the Personal File Materials of a current or former employee have been produced. Plaintiffs may not take the deposition of any such individual until at least sixty (60) days after the deposition notice has been served on the defendants, absent agreement of the parties or upon order of the Court. In order to reduce the cost and burden of conducting depositions of persons living abroad, the parties agree to coordinate depositions of present or former employees of

BHCAG and, if appropriate, other German Bayer entities, at a centralized location in Europe and during a single, consecutive period of time.

C) In the event defendants object to any deposition notice referred to above in Sections VI.A and VI.B, defendants must notify plaintiffs of such objection within twenty (20) days following receipt of said deposition notice.

D) In the event that plaintiffs depose present or former employees of BHCP, other U.S. Bayer entities, BHCAG, or other German Bayer entities prior to the completion of defendants' document production (such production being defined above in Sections V.C-2-11), the individual may not be re-deposed on the grounds of discovery of relevant information contained in later-produced documents, absent agreement of the parties or good cause. The party seeking to re-open the deposition of the witness shall bear the burden of demonstrating good cause. If, however, defendants produce additional Personal File Materials that are dated within the specified temporal scope of the defendants' production thereof after defendants have provided the formal written notice pursuant to Sections VI.A or VI.B above that the custodian's Personal File Materials have been produced, such additional production shall constitute prima facie evidence of good cause to re-open the deposition of that custodian for the limited purpose of examining the custodian on his or her newly produced Personal File Materials. Defendants shall have the opportunity to contest the re-opening of any such deposition but bear the burden to demonstrate why the deposition should not be re-opened.

E) The Parties and the Court endorse the cross-noticing of depositions in these Coordinated Actions, in other state court Trasylol actions and in the federal court Trasylol MDL proceedings to avoid multiple depositions of fact and expert witnesses. If a party in these Coordinated Actions cross-notices a deposition in these cases, it shall provide the notice to

Liaison Counsel by e-mail or facsimile as soon as possible. If a party in these Coordinated Actions objects to that cross-notice, the party issuing the cross notice shall within two (2) business days after service thereof, notify the Court of the dispute by letter e-mailed, delivered or faxed to the Court and Liaison Counsel. That letter shall ask the Court to convene a conference call to dispose of the dispute as soon as it can be scheduled. The burden shall be on the party in these Coordinated Actions objecting to the cross notice to demonstrate that the cross notice should be quashed. In no event shall witnesses be deposed on multiple occasions in connection with this proceeding without leave of Court and for good cause shown or by agreement of the parties, except that depositions of healthcare providers may be taken separately for each patient by or for whom a claim is asserted.

VII. DEPOSITIONS OF PLAINTIFFS AND OTHER CASE-SPECIFIC WITNESSES.

Defendants may not issue notices for the deposition of plaintiffs, plaintiffs' healthcare providers or other case-specific witnesses until after July 1, 2008.

VIII. COMPLETION OF FACT DISCOVERY.

A) All fact discovery in the Coordinated Actions shall be completed by July 15, 2009, except for case-specific discovery for cases filed after July 15, 2008. Completion of case-specific fact discovery in any such later-filed case shall be completed within eighteen (18) months of the date of initial service of the complaint upon a defendant.

B) In addition to the written discovery contemplated by the above paragraphs of this Order, the parties shall have the right to serve supplemental written discovery limited to information not previously disclosed in discovery. All such written discovery shall be submitted in sufficient time to afford to the responding party the period provided by the Pennsylvania Rules

of Civil Procedure within which to serve its response prior to the applicable fact discovery deadline.

IX. OTHER COMPOUNDS.

None of the defendants shall be required to produce documents or information relating to: (i) the chemical structure or composition of, (ii) the manufacturing, production or quality control processes for, (iii) the results of pre-clinical and/or clinical tests and studies of, (iv) financial information regarding developmental expenditures, budgets, and other projections of future developmental expenses, or (v) information specifying preclinical and/or clinical developmental plans regarding compounds developed by Bayer, other than Trasylol (aprotinin), that may reduce blood loss and the need for blood transfusions. To the extent documents containing information relating to other compounds also include non-privileged, discoverable information relating to Trasylol, such Trasylol-related information will be provided to plaintiffs.

X. EXPERT DISCOVERY.

Expert discovery shall commence at the close of fact discovery. The parties shall confer and present to the Court an agreed-upon expert discovery plan (or their statements of any disputed positions concerning expert discovery) no later than August 18, 2008. That plan shall, however, provide for the depositions of all generic and case-specific experts.

XI. FURTHER ORDERS.

The parties shall prepare for review and approval by the Court such other Case Management Orders as are required, including, without limitations, orders governing deposition

procedures and scheduling (including coordination with other Trasylol litigation), pretrial proceedings and trial proceedings.

BY THE COURT

Tereshko

J.