

DOCKETED
COMPLEX LIT CENTER

JUL 16 2008

COPIES SENT
PURSUANT TO Pa.R.C.P. 236(b)

JUL 16 2008

FIRST JUDICIAL DISTRICT OF PA
USER I.D.: 2

IN RE

J. STEWART

COURT OF COMMON PLEAS

TRASYLOL PRODUCTS LIABILITY
LITIGATION

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

In Re: Trasylol Litigation-CMOIS



0806052290003

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 Trasyol 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 Trasyol 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 Trasylool actions and in the federal court Trasylool 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

A handwritten signature in black ink, appearing to read "Tereshko". The signature is written in a cursive style with a large, stylized initial "T".

J.

EXHIBIT A

IN RE : COURT OF COMMON PLEAS
:
TRASYLOL PRODUCT LIABILITY : PHILADELPHIA COUNTY
LITIGATION :
: _____ TERM, 2008
:

PLAINTIFF'S FACT SHEET

Please provide, to the best of your knowledge and ability, the following information for each individual on whose behalf a claim is being made. If you are completing this questionnaire in a representative capacity, please respond to the questions in sections I.A and II through VIII with respect to the person to whom Trasylol was allegedly administered ("Trasylol User"). In filling out this form, please use the following definitions: (1) "health care provider" means any hospital, clinic, medical center, physician's office, infirmary, medical or diagnostic laboratory, or other facility that provides medical, dietary, psychiatric or psychological care or advice, and any pharmacy, weight loss center, x-ray department, laboratory, physical therapist or physical therapy department, rehabilitation specialist, physician, psychiatrist, osteopath, homeopath, chiropractor, psychologist, nutritionist, dietician, or other persons or entities involved in the evaluation, diagnosis, care and/or treatment of you; (2) "document" means any writing or record of every type that is in your possession, including but not limited to written documents, documents in electronic format, cassettes, videotapes, photographs, charts, computer discs or tapes, and x-rays, drawings, graphs, phone-records, non-identical copies and other data compilations from which information can be obtained and translated, if necessary, by the respondent through electronic devices into reasonably usable form. You may attach as many sheets of paper as necessary to fully answer these questions.

A number of questions set forth below solicit information for a specified period of the past fifteen (15) years. Please respond fully to each such question for the specified time period of fifteen (15) years preceding the alleged surgery involving the administration of Trasylol.

I. Case Information

A. Please state the following for the civil action that you filed:

1. Name of the Trasylol User: _____
2. Case caption: _____
3. Philadelphia County Court of Common Pleas No.: _____
4. Name, address, telephone number, fax number and e-mail address of principal attorney representing you:

Name

Firm

Street Address

City, State and Zip Code

Telephone Number

Fax Number

e-mail address

B. If you are completing this questionnaire in a representative capacity (on behalf of the estate of a deceased person or a minor), please state:

1. Your name: _____

2. Address: _____

3. In what capacity you are representing the individual: _____

4. If you were appointed by a court, state the court & date of appointment: _____

5. Your relationship to deceased or represented person: _____

6. If you represent a decedent's estate, state the date of death of decedent: _____

C. If you are claiming the wrongful death of a family member, list any and all heirs of the decedent: _____

II. Personal Data of the Trasylol User¹

A. Maiden name or any other names used and dates of use: _____

B. Identify each address at which you have resided during the last fifteen (15) years (including your current address, if applicable), and list when you started and stopped living at each one:

¹ In sections II through VIII, the Trasylol User is also referred to as "you" or "your."

Address	Dates of Residence

C. Driver's License Number and State Issuing License: _____

D. Social Security Number: _____

E. Date and place of birth: _____

F. Sex: Male ___ Female ___

G. For each current or former marriage, please list the following information for each spouse:

<u>Name of Spouse</u>	<u>Date of Birth</u>	<u>Date of Marriage</u>	<u>Date Marriage Ended</u>	<u>How Marriage Ended</u>	<u>Occupation (current spouse only)</u>

Has your spouse filed a loss of consortium claim in this action? Yes ___ No ___

H. For each of your children, list his/her name, date of birth, and address:

I. Employment Information.

1. Current Employer (if not currently employed, last employer):

Name	Address	Dates of Employment	Job Title	Name of Supervisor

2. List the following for each employer you have had in the last FIFTEEN (15) years:

Name	Address	Dates of Employment	Job Title	Name of Supervisor

J. Schools you have attended (high school and beyond only):

Name of School	Address	Dates of Attendance	Degree or Diploma Awarded	Major or primary field of study

K. Have you ever applied for worker's compensation, social security, or state or federal disability benefits? Yes No

If "Yes," then as to each application, separately state:

1. Date (or year) of application: _____
2. Type of benefits: _____
3. Amount awarded: _____
4. Reason for your claim: _____
5. If denied, reason for denial: _____
6. To what agency or company did you submit your application (e.g., Pennsylvania Division of Social Security): _____

L. Have you ever been out of work for more than thirty (30) days for reasons related to your health (other than pregnancy)? Yes No

If "yes", set forth when and the reason. _____

M. Were you ever rejected or discharged from military service for any reason relating to your health, physical, emotional or psychiatric condition? Yes No

If "yes," then describe the condition, set forth the year in which you were rejected or discharged from military service, and identify the military branch in which you were serving, or were considered for service, at that time.

N. Have you ever filed a lawsuit or made a claim, other than in the present suit, relating to any bodily injury, sickness or disease? Yes No

If yes, state the court in which such action was filed, the case name and/or names of adverse parties, and the civil action or docket number assigned to each such claim, action, or suit. _____

O. Have you ever been convicted of or pled guilty to a felony and/or other crime? Yes No

If yes, state the date of such conviction or plea, the court in which such conviction or plea was entered and the nature of the felony and/or other crime. _____

P. Have you ever been denied life insurance? Yes No

If "yes," state the date of such denial, the name of the insurance company and the stated reason for such denial, if known. _____

III. Health Care Providers of the Trasyolol User

Provide the requested information of each of the following healthcare providers and healthcare facilities:

- A. Beginning with your current family and/or primary care physician(s), please list your family and/or primary care physicians for the last fifteen (15) years:

Name	Address	Approximate Dates

- B. Each hospital, clinic, or healthcare facility where you have received inpatient or outpatient treatment (including treatment in an emergency room) or been admitted as a patient during the last fifteen (15) years:

Name	Address	Admission/Treatment Dates	Reason for Admission/Treatment	Treatment Received

- C. Each surgery or operation that you have undergone in the past fifteen (15) years, including but not limited to any heart-related surgeries:

Name and Address of Hospital	Type of Surgery or Operation	Date of Surgery or Operation	Reason for Surgery or Operation

- D. Every other physician or other healthcare provider or healthcare facility whom you have seen or from whom you have received treatment, or at which you've been treated, in the last fifteen (15) years:

Name	Address	Dates of Treatment/ Admission/ Visit	Reason for Treatment/ Admission/Visit	Treatment Received

E. Each pharmacy that has dispensed medication to you in the last fifteen (15) years:

Name	Address	Years When You Used Pharmacy

*Please attach additional pages if necessary

IV. Medical Background of the Trasyolol User

A. Height _____

B. Current Weight _____
 Weight at time of the procedure alleged in Section V.A. _____

C. Smoking/Tobacco Use History

1. Never smoked cigarettes _____
2. Past smoker of cigarettes _____
 Date you stopped smoking _____
 Amount smoked: on average _____ cigarettes per day for _____ years
3. Current smoker of cigarettes _____
 Amount smoked: on average _____ cigarettes per day for _____ years
4. Any other form of tobacco use (pipe tobacco, snuff, chewing tobacco, dipping, cigars)? _____ Yes _____ No

If "yes," then state:

- a. What form: _____
- b. Dates of use: _____
- c. Amount of use: _____

D. Drinking History

1. Do you now drink or have you in the past drunk alcohol (beer, wine, whisky, etc.)?
 _____ Yes _____ No

2. If yes, check below which best describes your alcohol consumption during the 12 months leading up to the date of the procedure described in Section V.A.?

_____ 1-5 drinks per week

_____ 6-10 drinks per week

_____ 10 or more drinks per week

E. Illicit Drugs

Have you ever used (even one time) any illicit drugs of any kind within one (1) year before the procedure alleged in Section V.A.? Yes ___ No ___ Don't Recall ___

If Yes:

1. What did you use? _____

2. How often did you use in the year preceding the procedure? _____

F. To the best of your knowledge, during the past fifteen (15) years, have you ever suffered from or been diagnosed by a doctor or other health care provider with:

	Yes	No	I Don't Recall
1. High cholesterol	___	___	___
2. Elevated triglycerides	___	___	___
3. Hypertension/high blood pressure	___	___	___
4. Obesity	___	___	___
5. Diabetes	___	___	___
6. Thyroid disorder	___	___	___
7. Autoimmune disease (including HIV or AIDS)	___	___	___
8. Abnormal heart rhythm	___	___	___
9. Congestive heart failure	___	___	___
10. Angina	___	___	___
11. Myocardial infarction (MI) or a heart attack	___	___	___
12. Atherosclerosis	___	___	___
13. Venous thrombosis	___	___	___
14. Peripheral vascular disease (PVD or PAD)	___	___	___
15. Stroke or transient ischemic attacks (TIAs)	___	___	___
16. Fainting	___	___	___
17. Miscarriage	___	___	___
18. Bleeding or clotting disorders	___	___	___
19. Chronic Lung Disease	___	___	___
20. Chronic obstructive pulmonary disease (COPD) or other respiratory disorder, including asthma	___	___	___
21. Liver disease or jaundice	___	___	___
22. Metabolic syndrome	___	___	___
23. Shock	___	___	___
24. Heparin induced thrombocytopenia	___	___	___
25. Anemia	___	___	___
26. Arrhythmia	___	___	___
27. Ventricular Tachycardia	___	___	___
28. Atrial Fibrillation	___	___	___
29. Mitral Insufficiency	___	___	___
30. Enlarged prostate	___	___	___
31. Bladder stones	___	___	___

If "yes," please state separately for each:

Type of Condition	Date of Diagnosis	Diagnosing Doctor

Type of Condition	Date of Diagnosis	Diagnosing Doctor

V. **Trasylol**

A. Administration to the Trasylol User

If so, state:

1. Date of administration: _____
2. Physician who administered Trasylol: _____
3. Physician who prescribed Trasylol: _____
4. Hospital or Medical Center where Trasylol was administered: _____
5. Nature of procedure during which Trasylol was administered: _____
6. Physician(s) or surgeons(s) performing the procedure (including anesthesiologist(s)): _____
7. When you, your agents, representatives or anyone acting on your behalf first learned that Trasylol had been administered: _____

B. Prior to or during your hospitalization for the procedure alleged in Section V.A., were you, your agents, representatives or anyone acting on your behalf (other than your lawyers in this case) given any written instructions, warnings, or other information regarding Trasylol? Yes No

If yes, please state when the written instructions, warnings or other information were given and identify each person or entity from whom they were received.

1. Date: _____
2. Person and/or Entity (with address): _____

C. Prior to or during your hospitalization for the procedure alleged in Section V.A., were you, your agents, representatives or anyone acting on your behalf (other than your lawyers in this case) given any oral instructions, warnings, or other information regarding Trasylol?
_____ Yes _____ No

If yes, please state:

1. Date on which such oral instructions, warnings or other information was given to you, your agents, representatives or anyone acting on your behalf:

2. Person who gave the information to you, your agents, representatives or anyone acting on your behalf (with address):

3. A complete description of the oral instructions, warnings or other information:

D. Were you, your agents, representatives or anyone acting on your behalf given any description of the risks associated with the surgery identified in V.A., above?
_____ Yes _____ No

If yes:

1. Provide a description of the risks of which you, your agents, representatives or anyone acting on your behalf were advised:

2. Identify the Health Care Provider who advised you, your agents, representatives or anyone acting on your behalf of such risks:

E. What other medication, including aspirin, were you taking when you were administered Trasylol or at any time during the two weeks before or after you were administered Trasylol.

Name of Drug	Dates Taken	Name of Prescribing Doctor

VI. Injuries, Symptoms, Diagnoses, Ailments & Damages of the Trasylol User

A. Are you claiming that you have developed or may develop any injury or damage (including any alleged physical, mental, emotional, psychological or psychiatric injury or damage) as a result of taking Trasylol? Yes No

If "yes," then for each such injury, damage or condition, separately state:

Nature of Condition	Date you first became aware of the injury, damage or condition	How you first became aware of it

For each such injury, damage or condition, have you consulted with healthcare provider(s) for your allegedly Trasylol related injury?
 Yes No

If "yes" , for each healthcare provider, state:

Name	Address	Dates of consultation and/or Treatment

- B. Do you allege that the administration of Trasylol aggravated a pre-existing condition?
 _____ Yes _____ No

If so, for each such pre-existing condition, provide:

Description of Pre-existing Condition	Date When Condition First Arose	Date When Condition First Diagnosed	Health Care Provider Who Provided Care for this Condition (with address)

- C. Has any healthcare provider told you, your agents, representatives or anyone acting on your behalf, orally or in writing, that any of the injuries, damages or conditions that you describe above are due to your use of Trasylol? _____ Yes _____ No

If "yes," then state and describe:

1. What you (or your agents, representatives or anyone acting on your behalf) were told: _____
2. Who told you (or your agents, representatives or anyone acting on your behalf) and when: _____

- D. Excluding future medical expenses to be addressed by case-specific expert(s), are you claiming that you have paid or will have to pay any expenses as a result of having taken Trasylol? _____ Yes _____ No

If "yes," then for each item separately identify:

For What	Amount of Fees or Expenses	Person or Company to be Paid

- E. If you claim psychological, mental, or emotional injury as a consequence of using Trasylol, state whether you have been treated for any psychological, psychiatric (including depression) or emotional problem prior to the use of Trasylol at issue.
____ Yes ____ No

If "yes," then complete the following:

Condition for which Treated	Dates of treatment	Treatment provider (name and address)

- F. Are there persons (other than those already identified in this Fact Sheet) you believe are witnesses to your claimed injuries or the damages? If so, please provide their name and address:

1. _____
2. _____
3. _____
4. _____
5. _____

VII. Other Medications or Drugs Used by the Trasylol User

To the best of your knowledge, state whether you used any of the following medications during the fifteen (15) years prior to the date of your alleged Trasylol injury, circle all medications you have used, state the first and last dates you took the medication, and identify the doctor that prescribed the medication

Medication	Dates Used (first to last use)	Prescribing Doctor	Reason for Prescription
Blood pressure medication (including but not limited to Benazepril, Lotensin, Captopril, Capoten, Capozide, Enalapril, Renitec, Vasotec, Fosinopril, Monopril, Lisinopril, Lisodur, Lopril, Novatec, Prenivil, Zestril, Moexipril, Univasc, Perindopril, Aceon, Coversyl, Quinapril, Accupril, Ramipril, Altace, Ramace, Ramiwin, Tritace)			

Medication	Dates Used (first to last use)	Prescribing Doctor	Reason for Prescription
Aminoglycoside antibiotic medication (including but not limited to Amikacin, Amikin, Apramycin, Apralan, Gentamicin, Gentamicin and Prednisolone Acetate, Gentamicin Sulfate Ophthalmic, Garamycin, Pred-G, Genoptic, Kanamycin, Kantrex, Neomycin, Neosporin, Mycifradin, Neo-Fradin, Neomycin Sulfate, Neo-Tab, Netilmicin, Netromycin, Paromomycin, Humatin, Paromycin, Streptomycin, Tobramycin, Nebcin, Tobi, Tobramycin and Dexamethasone, Tobradex, Tobramycin and Dexamethasone Ophthalmic Ointment, Tobradex Ointment)			
Any diuretic medication (including but not limited to Bumentanide, Bumex, Eplerenone, Inspra, Furosemide, Lasix, Hydrochlorothiazide, HyrdroDIURIL, Microzide, Metolazone, Zaroxolyn, Spironolactone, Aldactone)			

Medication	Dates Used (first to last use)	Prescribing Doctor	Reason for Prescription
Any pain reliever or anti-inflammatory medication other than aspirin (including but not limited to Celecoxib, Celebrex, Diclofenac, Voltaren, Cataflam, Arthrotec, Ibuprofen, Advil, Dristran, Genpril, Haltran, IBU, Menadol, Midol, Motrin, Nuprin, Vicoprofen, Indomethacin, Indocin, Ketorolac, Toradol, Nabumetone, Relafen, Naproxen, Aleve, Anaprox, Naprelan, Naprosyn)			
Lithium (Lithobid)			
Any and all <u>other</u> prescription and non-prescription medications, including herbal or homeopathic remedies. Name: _____ _____ _____ _____			

*Attach additional pages if necessary

VIII. Family History of the Trasylol User

- A. 1. To the best of your knowledge did any child, parent, sibling, aunt, uncle, or grandparent of the Trasylol User have diabetes or any type of kidney disease?
 Yes ___ No ___
2. To the best of your knowledge did any child, parent, sibling, aunt, uncle, or grandparent of the Trasylol User have a stroke, myocardial infarction (heart attack) or any other type of heart disease?
 Yes ___ No ___

B. If yes, then state separately for each:

Relative's name: _____

Relationship to you: _____

Type of health problem: _____

Date and cause of death if applicable: _____

Relative's name: _____

Relationship to you: _____

Type of health problem: _____

Date and cause of death if applicable: _____

Relative's name: _____

Relationship to you: _____

Type of health problem: _____

Date and cause of death if applicable: _____

Relative's name: _____

Relationship to you: _____

Type of health problem: _____

Date and cause of death if applicable: _____

IX. Request for Production of Documents Directed to Plaintiff(s)

Please produce the following documents (including but not limited to emails and internet articles) with this Fact Sheet, to the extent that such documents are currently in your possession or in the possession of your lawyers:

1. All documents you or anyone acting on your behalf reviewed in preparation of this Fact Sheet.
2. A copy of all medical records regarding the Trasylol User from any physician, hospital or health care provider who treated the Trasylol User for any disease, condition or symptom referred to in response to the questions above.
3. To the extent not included in the foregoing, all records relating to any examination of the Trasylol User by a physician or other health care provider, conducted for any purpose during the past fifteen (15) years.
4. If the Trasylol User has been the claimant or subject of any worker's compensation, Social Security or other disability proceeding, all documents relating to such proceeding.
5. Reports of all diagnostic tests, cardiac function, circulatory function, blood tests, and kidney function tests administered to the Trasylol User within the past fifteen (15) years.

6. Copies of all documents from physicians, healthcare providers or others relating to the use of Trasylol, or to any condition you claim is related to the use of Trasylol, or recording the administration of Trasylol to the Trasylol User.
7. All documents constituting, concerning or relating to product use instructions, product warnings, package inserts or other materials provided to the Trasylol User or his or her agents, representatives or anyone acting on the Trasylol User's behalf (other than your attorneys in this case) in connection with the use of Trasylol.
8. All prescriptions, prescription records, drug containers and labels, informational brochures, advertisements, package inserts and other documents setting forth warnings and/or instructions relating to any medications or drugs identified in subsection VII of this Fact Sheet.
9. Any diaries, calendars, date books, or other documents which reflect use by the Trasylol User of prescription medications and/or which record or reflect the occurrence, duration or severity of any injury, illness or disease affecting the Trasylol User within the past fifteen (15) years.
10. Any releases, covenants not to sue, and any other agreement(s) between you and any other person relating in any way to the claims asserted in this lawsuit.
11. All press releases or other public statements made by or on behalf of you relating to this litigation.
12. All documents recording any communication concerning Trasylol that you or anyone acting on your behalf had with any governmental body, regulatory agency, trade group, pharmaceutical manufacturer or distributor, members of the press or news media, or other person (other than your lawyers in this case).
13. All statements obtained from or given by any person having knowledge of facts relevant to the subject of this litigation.
14. All documents that relate to Trasylol, any alleged side effect of Trasylol, or the alleged injuries that are the subject of this lawsuit.
15. All documents relating to Trasylol or any alleged health risks or hazards related to Trasylol in your possession, or the possession of the Trasylol User, at or before the time of the injury alleged in your Complaint.
16. All documents you or anyone acting on your behalf (and not your lawyer) obtained directly or indirectly from any defendant.
17. All photographs, drawings, journals, slides or videos relating to the injuries alleged in your complaint.

18. All documents that record, reflect or relate to any pecuniary loss or other damages, including all out of pocket expense documentation, that you claim resulted from the administration of Trasylol as alleged in the Complaint.
19. If your complaint includes a claim of loss of support or loss of earnings or earning capacity, the federal income tax returns of the Trasylol User for each of the last fifteen (15) years.
20. If you claim any loss from medical expenses, copies of all bills from any physician, hospital, pharmacy or other health care provider.
21. Copies of letters testamentary or letters of administration relating to your status as plaintiff.
22. Decedent's death certificate (if applicable).
23. Any medical or coroner's reports regarding decedent's death (if applicable).

X. Authorizations

Complete and sign the attached authorizations for release of records.

XI. Declaration

I declare under penalty of perjury subject to 18 Pa. C.S. §4904 that all of the information provided in this Plaintiffs' Fact Sheet is true and correct to the best of my knowledge, information and belief formed after due diligence and reasonable inquiry, that I have supplied all the documents requested in Part IX of this Plaintiffs' Fact Sheet, to the extent that such documents are in my possession or in the possession of my lawyers, and that I have supplied the authorizations attached to this declaration.

Further, by signing below, I waive notice under the Pennsylvania Rules of Civil Procedure, or other applicable law or rule, of subpoenas or other requests for production of medical records directed to health care providers identified in this Plaintiff's Fact Sheet.

Signature

Date

EXHIBIT B

**HIPAA COMPLIANT AUTHORIZATION FOR USE AND DISCLOSURE
OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION**

(Psychological Injury is Claimed)

**Person/Entity from Whom
Records are Requested:**

Provider Name ("Provider")

Address

City, State and Zip Code

Patient:

Patient Name

Address

City, State and Zip Code

Date of Birth

Social Security Number

Information Authorized To Be Disclosed: I authorize the Provider to furnish copies of my entire medical record and all of my individually identifiable health information, including, without limitation:

- medical reports
- CT scans
- MRA films
- prescription records
- employment records
- medical bills
- blood tests
- X-rays
- correspondence
- echocardiographic recordings
- wage records
- pathology specimens
- radiographic films
- MRI films
- progress notes
- written statements
- disability records

and other documents in your possession including records from other providers, including records for treatment of psychological, psychiatric or emotional problems, to the following representative of the defendants in the litigation captioned _____,
Case No. _____, in the _____, in which I am the plaintiff:

Person To Whom Records Are To Be Disclosed: Shook, Hardy & Bacon, L.L.P.
Name of Representative ("Requestor")
Attorneys for Bayer HealthCare Pharmaceuticals, Inc.
Representative Capacity
2555 Grand Boulevard Kansas City, MO 64108-2613
Address City, State and Zip Code

The records requester has agreed to pay reasonable charges made by the Provider to supply copies of such records.

Purpose of Disclosure: I am requesting this disclosure to allow these records to be used in connection with the litigation in which I am a plaintiff.

Acknowledgements:

I understand that this disclosure may include information relating to treatment of drug or alcohol abuse, mental health, psychiatric information, acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus (HIV), sexually transmitted diseases, sickle cell anemia treatment, tuberculosis information, and genetic testing information.

I understand that if the persons or entities to whom I am asking that the Provider disclose this information are not covered by federal privacy regulations, then this information will no longer be protected under federal privacy law and could be subject to re-disclosure.

I understand that my signing or revocation of this authorization will not affect my health care treatment or eligibility for payment under my health plan.

Term and Revocation: This authorization shall be considered as continuing in nature until a final, non-appealable judgment has been entered in the case I have brought. This authorization remains in full force and effect until such expiration, and further authorizes the Provider to release to the Requestor any additional records created or obtained by the Provider after the date hereof. I understand that I may revoke this authorization at any time by writing to the Provider at the Provider's above address, but my revocation will not apply to information that has already been released before the Provider receives notice of any revocation.

It is expressly understood by me that the Provider is authorized to accept a copy or photocopy of this authorization with the same validity as though an original had been presented to the Provider.

Date: _____

Claimant/Guardian/Personal Representative

Date: _____

Witness Signature

**AUTHORIZATION FOR RELEASE OF
INSURANCE RECORDS**

To:

Name

Address

City, State and Zip Code

This will authorize you to furnish copies of all forms regarding insurance claims applications and benefits and all medical, health, hospital, physicians, nursing or allied health professional reports, records, notes or invoices and bills, which may be in your possession.:

Name of Insured

whose date of birth is _____ and whose social security number is

_____.

You are authorized to release the above records to the following representatives of defendants in the above-entitled matter, who have agreed to pay reasonable charges made by you to supply copies of such records.

Shook, Hardy & Bacon, L.L.P.

Name of Representative

Attorneys for Bayer HealthCare Pharmaceuticals, Inc.

Representative Capacity (e.g., attorney, records, requester, agent, etc.)

2555 Grand Boulevard

Street Address

Kansas City, MO 64108-2613

City, State and Zip Code

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization is not valid unless the record requestor named above has executed the acknowledgement at the bottom of this authorization.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as through the original had been presented to you.

Date: _____

Insured/Personal Representative Signature

Date: _____

Witness Signature

**AUTHORIZATION FOR RELEASE OF
EDUCATIONAL RECORDS**

To:

Name

Address

City, State and Zip Code

This will authorize you to furnish copies of all school records including, but not limited to, test results, test scores, report cards, or other school grading material, attendance records, physicals and other health-related, including but not limited to any physicians, nursing or allied health professional reports, records or notes, which may be in your possession.

Name of Student

whose date of birth is _____ and whose social security number is _____.

You are authorized to release the above records to the following representatives of defendants in the above-entitled matter, who have agreed to pay reasonable charges made by you to supply copies of such records.

Shook, Hardy & Bacon, L.L.P.

Name of Representative

Attorneys for Bayer HealthCare Pharmaceuticals, Inc.

Representative Capacity (e.g., attorney, records, requester, agent, etc.)

2555 Grand Boulevard

Street Address

Kansas City, MO 64108-2613

City, State and Zip Code

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization is not valid unless the record requestor named above has executed the acknowledgement at the bottom of this authorization.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as through the original had been presented to you.

Date: _____

Student/Personal Representative Signature

Date: _____

Witness Signature

**AUTHORIZATION FOR RELEASE OF EMPLOYMENT
AND UNEMPLOYMENT RECORDS**
(Psychological Injury is Claimed)

To:

Name

Address

City, State and Zip Code

This will authorize you to furnish copies of all applications for employment, resumes, records of all positions held, job descriptions of positions held, salary and/or compensation records, performance evaluations and reports, statements and comments of fellow employees, attendance records, W-2's, workers' compensation files; all hospital, physician, clinic, infirmary, psychiatric, nurse and dental records, x-rays, test results, physical examination records; any records pertaining to claims made relating to health, disability or accidents in which I was involved including correspondence, reports, claim forms, questionnaires, records of payments made to me or on my behalf, and any other records relating to my employment with the above-named institution, including records for treatment of psychological, psychiatric or emotional problems, concerning _____ (name of employee) whose date of birth is _____ and whose social security number is _____.

You are authorized to release the above records to the following representatives of defendants in the above-entitled matter, who have agreed to pay reasonable charges made by you to supply copies of such records.

Shook, Hardy & Bacon, L.L.P.
Name of Representative

Attorneys for Bayer HealthCare Pharmaceuticals, Inc.
Representative Capacity (e.g., attorney, records, requester, agent, etc.)

2555 Grand Boulevard
Street Address

Kansas City, MO 64108-2613
City, State and Zip Code

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization is not valid unless the record requestor named above has executed the acknowledgement at the bottom of this authorization.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as through the original had been presented to you.

Date: _____

Guardian/Personal Representative Signature

Date: _____

Witness Signature

**AUTHORIZATION FOR RELEASE OF
DISABILITY CLAIMS RECORDS**

To:

Name

Address

City, State and Zip Code

This will authorize you to furnish copies of any and all records of disability claims of any sort, including, but not limited to, statements, applications, disclosures, correspondence, notes, settlements, agreements, contracts or other documents, concerning:

Name of Claimant

whose date of birth is _____ and whose social security number is

_____.

You are authorized to release the above records to the following representatives of defendants in the above-entitled matter, who have agreed to pay reasonable charges made by you to supply copies of such records.

Shook, Hardy & Bacon, L.L.P.

Name of Representative

Attorneys for Bayer HealthCare Pharmaceuticals, Inc.

Representative Capacity (e.g., attorney, records, requester, agent, etc.)

2555 Grand Boulevard

Street Address

Kansas City, MO 64108-2613

City, State and Zip Code

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as through the original had been presented to you.

Date: _____

Claimant/Guardian/Personal Representative
Signature

Date: _____

Witness Signature

**AUTHORIZATION FOR RELEASE OF
WORKERS' COMPENSATION RECORDS**

To:

Name

Address

City, State and Zip Code

This will authorize you to furnish copies of any and all workers' compensation records of any sort, including, but not limited to, statements, applications, disclosures, correspondence, notes, settlements, agreements, contracts or other documents, concerning:

Name of Claimant

whose date of birth is _____ and whose social security number is

_____.

You are authorized to release the above records to the following representatives of defendants in the above-entitled matter, who have agreed to pay reasonable charges made by you to supply copies of such records.

Shook, Hardy & Bacon, L.L.P.

Name of Representative

Attorneys for Bayer HealthCare Pharmaceuticals, Inc.

Representative Capacity (e.g., attorney, records, requester, agent, etc.)

2555 Grand Boulevard

Street Address

Kansas City, MO 64108-2613

City, State and Zip Code

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as through the original had been presented to you.

Date: _____

Claimant/Guardian/Personal Representative
Signature

Date: _____

Witness Signature

**AUTHORIZATION FOR RELEASE OF
SOCIAL SECURITY RECORDS**

To:

Name

Address

City, State and Zip Code

This will authorize you to furnish copies of any and all social security records of any sort, including, but not limited to, statements, applications, disclosures, correspondence, notes, settlements, agreements, contracts or other documents, concerning:

Name of Claimant

whose date of birth is _____ and whose social security number is

_____.

You are authorized to release the above records to the following representatives of defendants in the above-entitled matter, who have agreed to pay reasonable charges made by you to supply copies of such records.

Shook, Hardy & Bacon, L.L.P.

Name of Representative

Attorneys for Bayer HealthCare Pharmaceuticals, Inc.

Representative Capacity (e.g., attorney, records, requester, agent, etc.)

2555 Grand Boulevard

Street Address

Kansas City, MO 64108-2613

City, State and Zip Code

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as through the original had been presented to you.

Date: _____

Claimant/Guardian/Personal Representative
Signature

Date: _____

Witness Signature

Form **4506-T**

(Rev. April 2005)

Department of the Treasury
Internal Revenue Service

Request for Transcript of Tax Return

- ▶ Do not sign this form unless all applicable lines have been completed. Read the instructions on page 2.
- ▶ Request may be rejected if the form is incomplete, illegible, or any required line was blank at the time of signature.

OMB No. 1545-1612

Tip: Use Form 4506-T to order a transcript or other return information free of charge. See the product list below. You can also call 1-800-829-1040 to order a transcript. If you need a copy of your return, use Form 4506, Request for Copy of Tax Return. There is a fee to get a copy of your return.

1a Name shown on tax return. If a joint return, enter the name shown first.	1b First social security number on tax return or employer identification number (see instructions)
2a If a joint return, enter spouse's name shown on tax return	2b Second social security number if joint tax return
3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code	
4 Previous address shown on the last return filed if different from line 3	
5 If the transcript or tax information is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number. The IRS has no control over what the third party does with the tax information. Shook, Hardy & Bacon, L.L.P. 2555 Grand Boulevard, Kansas City, MO 64108-2613 HomeCare Pharmaceuticals, Inc.	

Caution: If a third party requires you to complete Form 4506-T, do not sign Form 4506-T if lines 6 and 9 are blank.

6 Transcript requested. Enter the tax form number here (1040, 1065, 1120, etc.) and check the appropriate box below. Enter only one tax form number per request. ▶

a Return Transcript, which includes most of the line items of a tax return as filed with the IRS. Transcripts are only available for the following returns: Form 1040 series, Form 1065, Form 1120, Form 1120A, Form 1120H, Form 1120L, and Form 1120S. Return transcripts are available for the current year and returns processed during the prior 3 processing years. Most requests will be processed within 10 business days.

b Account Transcript, which contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made by you or the IRS after the return was filed. Return information is limited to items such as tax liability and estimated tax payments. Account transcripts are available for most returns. Most requests will be processed within 30 calendar days.

c Record of Account, which is a combination of line item information and later adjustments to the account. Available for current year and 3 prior tax years. Most requests will be processed within 30 calendar days.

7 Verification of Nonfiling, which is proof from the IRS that you did not file a return for the year. Most requests will be processed within 10 business days.

8 Form W-2, Form 1099 series, Form 1088 series, or Form 5498 series transcript. The IRS can provide a transcript that includes data from these information returns. State or local information is not included with the Form W-2 information. The IRS may be able to provide this transcript information for up to 10 years. Information for the current year is generally not available until the year after it is filed with the IRS. For example, W-2 information for 2003, filed in 2004, will not be available from the IRS until 2005. If you need W-2 information for retirement purposes, you should contact the Social Security Administration at 1-800-772-1213. Most requests will be processed within 45 days.

Caution: If you need a copy of Form W-2 or Form 1099, you should first contact the payer. To get a copy of the Form W-2 or Form 1099 filed with your return, you must use Form 4506 and request a copy of your return, which includes all attachments.

9 Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than four years or periods, you must attach another Form 4506-T. For requests relating to quarterly tax returns, such as Form 941, you must enter each quarter or tax period separately.

____/____/____

Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax information requested. If the request applies to a joint return, either husband or wife must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506-T on behalf of the taxpayer.

Sign Here	Signature (see instructions)	Date	Telephone number of taxpayer on line 1a or 2a ()
	Title (if line 1a above is a corporation, partnership, estate, or trust)		
	Spouse's signature	Date	

Form **4506**

(Rev. April 2009)
Department of the Treasury
Internal Revenue Service

Request for Copy of Tax Return

- Do not sign this form unless all applicable lines have been completed. Read the instructions on page 2.
- Request may be rejected if the form is incomplete, illegible, or any required line was blank at the time of signature.

OMB No. 1545-0048

Tip: You may be able to get your tax return or return information from other sources. If you had your tax return completed by a paid preparer, they should be able to provide you a copy of the return. The IRS can provide a Tax Return Transcript for many returns free of charge. The transcript provides most of the line entries from the tax return and usually contains the information that a third party (such as a mortgage company) requires. See Form 4506-T, Request for Transcript of Tax Return, or you can call 1-800-829-1040 to order a transcript.

1a Name shown on tax return. If a joint return, enter the name shown first.	1b First social security number on tax return or employer identification number (see instructions)
2a If a joint return, enter spouse's name shown on tax return	2b Second social security number if joint tax return
3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code	
4 Previous address shown on the last return filed if different from line 3	

5 If the tax return is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number. The IRS has no control over what the third party does with the tax return.
Shook, Hardy & Bacon, L.L.P.,
Attorneys for Bayer HealthCare Pharmaceuticals, Inc.
2555 Grand Boulevard, Kansas City, MO 64108-2613

Caution: If a third party requires you to complete Form 4506, do not sign Form 4506 if lines 6 and 7 are blank.

6 Tax return requested (Form 1040, 1120, 941, etc.) and all attachments as originally submitted to the IRS, including Form(s) W-2 schedules, or amended returns. Copies of Forms 1040, 1040A, and 1040EZ are generally available for 7 years from filing before they are destroyed by law. Other returns may be available for a longer period of time. Enter only one return number. If you need more than one type of return, you must complete another Form 4506. **Note: If the copies must be certified for court or administrative proceedings, check here.**

7 Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than eight years or periods, you must attach another Form 4506.

____/____/____	____/____/____	____/____/____	____/____/____
____/____/____	____/____/____	____/____/____	____/____/____

8 Fee. There is a \$39 fee for each return requested. Full payment must be included with your request or it will be rejected. Make your check or money order payable to "United States Treasury." Enter your SSN or EIN and "Form 4506 request" on your check or money order.		
a Cost for each return		\$ 39.00
b Number of returns requested on line 7		
c Total cost. Multiply line 8a by line 8b		\$

9 If we cannot find the tax return, we will refund the fee. If the refund should go to the third party listed on line 5, check here
 Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax return requested. If the request applies to a joint return, either husband or wife must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506 on behalf of the taxpayer.

Sign Here	Signature (see instructions)	Date	Telephone number of taxpayer on line 1a or 2a ()
	Title (if line 1a above is a corporation, partnership, estate, or trust)		
	Spouse's signature	Date	

EXHIBIT C

IN RE

: COURT OF COMMON PLEAS

TRASYLOL PRODUCTS LIABILITY
LITIGATION

: PHILADELPHIA COUNTY
: *June Term 12008*
: No. *5229*

PROTECTIVE ORDER

WHEREAS pursuant to Pa. R.Civ.P. 4012(9), the Court deems it appropriate to limit disclosure of certain confidential information, as set forth below, IT IS HEREBY ORDERED THAT:

1. **Discovery Material.** This Order applies to all products of discovery and all information derived therefrom, including, but not limited to, all documents and deposition testimony and any copies, excerpts or summaries thereof, obtained by any party pursuant to the requirements of any court order, requests for production of documents, requests for admissions, interrogatories or subpoena.

2. **Confidential Discovery Material.** Discovery material containing trade secrets, or other confidential or proprietary research, development, manufacturing or commercial or business information may be designated as "Confidential." Without prejudice to the right of a party to object to the production of the following information or of a party to seek production, the information subject to such designation shall include the producing party's:

- (a) Customer names;
- (b) Proprietary licensing, distribution, marketing, design, development, research and manufacturing information regarding products and medicines, whether previously or currently marketed or under development;
- (c) Unpublished clinical studies and related documents;
- (d) Information concerning competitors;

- (e) Production information;
- (f) Personnel records and information;
- (g) Financial information not publicly filed with any federal or state regulatory authorities or not contained within any publicly available quarterly or annual reports;
- (h) Private medical information that identifies a person unless such identifying information is redacted;
- (i) Information submitted to any governmental or regulatory agency, which information is exempt from public disclosure.

3. **Requests to Designate Other Materials as Confidential.** If any party believes a document not falling within the scope of Paragraph 2 should nevertheless be considered confidential, the parties shall meet and confer, and absent an agreement the party seeking confidential treatment may apply to the Court for an Order designating such document as confidential. Such application shall only be granted for good cause shown.

4. **Use of Confidential Discovery Material.**

(a) Confidential discovery material may be used only for the litigation of IN RE TRASYLOL PRODUCTS LIABILITY LITIGATION, June Term, 2008, No. 5229 ("Litigation"), including any appeals of this Litigation, and for any other action brought by or on behalf of a former Trasylool user alleging injuries or other damages therefrom ("Other Trasylool Lawsuits"), so long as all parties are bound by and subject to another judicially approved protective order that is identical to or the substantial equivalent to this Order. Confidential discovery material will not be disclosed except in accordance with paragraphs 4(b), 7 and 10.

(b) Prior to being given access to confidential discovery material, any person falling within subparagraphs 7(a)(vi) or 7(a)(viii) shall be provided with a copy of this Order and shall execute a copy of the Endorsement of Protective Order, attached as Exhibit A. Counsel providing such access to confidential discovery material shall retain copies of the Endorsement(s) of Protective Order and shall provide them to counsel producing confidential discovery material as provided below. For testifying experts, a copy of the Endorsement of Protective Order executed by the testifying expert shall be furnished to counsel for the party who produced the confidential discovery material to which the expert has access, either at the time the confidential material is given to the testifying expert, or at the time the expert's designation is served, whichever is later.

5. **Designation of Confidential Discovery Material.** Confidential discovery material, if in writing, shall have the following language stamped on the face of the writing, or shall otherwise have such language clearly marked:

**CONFIDENTIAL
SUBJECT TO PROTECTIVE ORDER**

Such stamping or marking will take place prior to production by the producing person, or subsequent to selection by the receiving party for copying but prior to the actual copying if done expeditiously. The stamp shall be affixed in such manner as not to obliterate or obscure any written matter. In the case of deposition testimony relating to documents designated as confidential, the portion of the transcript in which confidential writings are offered, identified or discussed shall also be designated as confidential. Any additional confidentiality designations shall be made within 30 days after the transcript has been received by counsel making the designation, and shall specify the testimony being designated confidential by page and line number(s). Until the expiration of such 30-day period, the entire text of the deposition, including

exhibits, shall be treated as confidential under this Order. In the event that the producing person or party inadvertently fails to designate discovery material as confidential in this or any other litigation, it may make such a designation subsequently by notifying all parties to whom such discovery material was produced, in writing as soon as practicable. After receipt of such notification, the parties to whom production has been made shall treat the designated discovery material as confidential, subject to their right to dispute such designation in accordance with paragraph 8.

6. **Consent to Jurisdiction.** All persons receiving or given access to confidential discovery material in accordance with the terms of this Order consent to the continuing jurisdiction of the Court for the purposes of enforcing this Order and remedying any violations thereof.

7. **Disclosure of Confidential Discovery Material.**

(a) Confidential discovery material shall not be disclosed to anyone other than the following categories of persons:

i. The Court (and any appellate court), including court personnel, jurors, and alternate jurors subject to the requirements of paragraph 10 below.

ii. If produced by Plaintiffs, Defendants' in-house counsel, paralegals and clerical support staff, and outside counsel, including any attorneys employed by or retained by Defendants' outside counsel who are assisting in connection within this Litigation, and the paralegal, clerical, secretarial and other staff employed or retained by such outside counsel or retained by the attorneys employed by or retained by Defendants' outside counsel. To the extent a Defendant does not have in-house counsel, it may designate two individuals employed by each

Defendant (in addition to outside counsel) to receive Confidential Discovery Material produced by Plaintiffs.

iii. If produced by any Defendant, a Plaintiff in this Litigation, Plaintiff's attorneys in this Litigation, including the paralegal, clerical, secretarial and other staff employed or retained by such counsel. Additionally, confidential discovery material produced by any defendant in this Litigation may be disclosed to the named plaintiff(s) in Other Trasylol Lawsuits, and their counsel of record, including paralegal, clerical, secretarial and other staff employed or retained by such other plaintiffs' counsel of record if a protective order identical to or the substantial equivalent to this order has been entered in such Other Trasylol Lawsuits.

iv. If produced by any Defendant, outside counsel for any other Defendant, including any attorneys employed by or retained by any other Defendant's outside counsel who are assisting in connection with this Litigation, and the paralegal, clerical, secretarial and other staff employed or retained by such outside counsel.

v. Court reporters (including persons operating video recording equipment at depositions) and persons preparing transcripts of testimony to the extent necessary to prepare such transcripts.

vi. Retained experts, advisors and consultants, including persons directly employed by such experts, advisors and consultants (collectively "Experts"), but only to the extent necessary to perform their work in connection with this Litigation or Other Trasylol Lawsuits in which a protective order that is identical to or the substantial equivalent of this order has been entered.

vii. The persons who authored the confidential discovery material or who received such confidential discovery material in the ordinary course of business.

viii. Such other persons as counsel for the producing party shall consent to in writing before the proposed disclosure.

(b) All parties and their respective counsel, paralegals and the employees and assistants of all counsel receiving discovery material shall take all steps reasonably necessary to prevent the disclosure of confidential discovery material other than in accordance with the terms of this Order.

(c) Each person who is permitted to see confidential documents shall first be shown a copy of this Order and shall further be advised of the obligation to honor the confidentiality designation.

(d) Disclosure of confidential discovery material other than in accordance with the terms of this Order may subject the disclosing person to such sanctions and remedies as the Court may deem appropriate, including without limitation, contempt, injunctive relief and damages.

8. Disputes Concerning Designation of Confidential Discovery Material.

(a) If at any time a party wishes for any reason to dispute a designation of discovery material as confidential hereunder, such party shall notify the designating party of such dispute in writing, specifying by exact document numbers the discovery material in dispute and the precise nature of the dispute with regard to each such document or other discovery material. If the parties are unable amicably to resolve the dispute, the proponent of confidentiality may apply by motion for a ruling as to whether the designated discovery material may, in accordance with this Order, properly be treated as confidential, provided such motion is made within 30 days from the date on which the parties, after good faith attempt, cannot resolve the dispute or such

other time period as the parties may agree. The designating party shall have the burden of proof on such motion to establish the propriety of its confidentiality designation.

(b) All discovery material designated as confidential under this Order, whether or not such designation is in dispute pursuant to subparagraph 8(a) above, shall retain that designation and be treated as confidential in accordance with the terms hereof unless and until:

i. the producing party agrees in writing that the material is no longer confidential and subject to the terms of this Order; or

ii. twenty days after the expiration of the appeal period of an Order of this Court that the matter shall not be entitled to confidential status (or such longer time as ordered by this Court) if the Order on appeal is not subject to a stay.

(c) The parties shall negotiate in good faith before filing any motion relating to this Order.

9. **Designation by Non-Parties.** Any non-party who is producing discovery materials in this Litigation may subscribe to and obtain the benefits of the terms and protections of this Order by designating pursuant to the terms of this Order as “Confidential” the discovery materials that the non-party is producing.

10. **Filing Under Seal.** Any confidential discovery material that is filed with the Court, and any pleading, motion or other paper filed with the Court containing or disclosing any such confidential discovery material shall be filed under seal and shall bear the legend:

“THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION COVERED BY A PROTECTIVE ORDER OF THE COURT AND IS SUBMITTED UNDER SEAL PURSUANT TO THAT PROTECTIVE ORDER. THE CONFIDENTIAL CONTENTS OF THIS DOCUMENT MAY NOT BE DISCLOSED WITHOUT EXPRESS ORDER OF THE COURT.”

Said confidential discovery material and/or other papers shall be kept under seal until further order of the Court; however, said confidential discovery material and other papers filed under seal shall be available to the Court and counsel of record, and to all other persons entitled to receive the confidential information contained therein under the terms of this Order.

11. Disclosure of Discovery Material.

(a) Except as provided for herein, nothing in this Order shall prevent or restrict counsel for any party in any way from inspecting, reviewing, using or disclosing any discovery material produced or provided by that party, including discovery material designated as confidential.

(b) Nothing shall prevent disclosure beyond that permitted under this Order if the producing party consents in writing to such disclosure, or if the Court, after notice to all affected parties, orders such disclosure and that Order is not subject to an appellate stay within 20 days after it is issued.

(c) No disclosure pursuant to this paragraph 11 shall waive any rights or privileges of any party granted by this Order.

12. No Effect on Other Obligations. This Order shall not enlarge or affect the proper scope of discovery in this or any other litigation, nor shall this Order imply that confidential discovery material is properly discoverable, relevant or admissible in this or any other litigation. Each party reserves the right to object to any disclosure of information or production of any documents that the producing party designates as confidential discovery material on any other ground it may deem appropriate. Neither the entry of this Order, nor the designation of any discovery material as confidential, nor the failure to make such designation, shall constitute evidence with respect to any issue in this or any other litigation.

13. **No Prejudice to Other Protections.** The entry of this Order shall be without prejudice to the rights of the parties, or any one of them, or of any non-party to assert or apply for additional or different protection.

14. **Obligation of Good Faith.** All parties and counsel for such parties in this litigation shall make a good faith effort to ensure that their experts, employees and agents comply with this Order. In the event of a change in counsel, retiring counsel shall fully instruct new counsel of their responsibilities under this Order.

15. **Modifications/Continuing Effect.** By written agreement of the parties, or upon motion and order of the Court, the terms of this Protective Order may be amended or modified. This Protective Order shall continue in force until amended or superseded by express order of the Court, and shall survive any final judgment or settlement in this Litigation. The parties shall take such reasonable measures as are necessary and appropriate to prevent the public disclosure of confidential discovery material, through inadvertence or otherwise, after the conclusion of this Litigation.

16. **Return of Confidential Discovery Material.** Within 45 days of the termination of a case in this Litigation (including any appeals) or such other time as the producing party may agree in writing, the parties shall return the confidential discovery material to counsel for the producing party in that case. However, if counsel for Plaintiff in this Litigation has other cases pending brought by or on behalf of a former Trasylol user alleging injuries or other damages therefrom, counsel for Plaintiff will be able to keep the confidential discovery material until such time as all litigation plaintiffs' counsel has pending brought by or on behalf of a former Trasylol user alleging injuries or other damages therefrom, has been terminated. Outside counsel, however, shall not be required to return any pretrial or trial records regularly maintained by that

counsel in the ordinary course of business, which records will continue to be maintained confidential in conformity with this Order.

17. **Responses to Subpoenas or Other Process.** If a receiving party or its counsel or expert is served with a subpoena or other process by any court, administrative or legislative body, or any other person or organization which calls for production of any confidential discovery material produced by another party, the party to whom the subpoena or other process is directed shall not, to the extent permitted by applicable law, provide or otherwise disclose such document or information until 10 business days after notifying counsel for the producing party in writing of all of the following: (1) the information and documentation which is requested for production in the subpoena; (2) the date on which compliance with the subpoena is requested; (3) the location at which compliance with the subpoena is requested; (4) the identity of the party serving the subpoena; and (5) the case name, jurisdiction and index, docket, complaint, charge, civil action or other identification number or other designation identifying the litigation, administrative proceeding or other proceeding in which the subpoena has been issued. The party, counsel or expert receiving the subpoena or other process shall cooperate to the extent reasonably possible, with the producing party in any proceeding relating thereto.

18. **Use of Confidential Discovery Material at Hearings or Trial.** This Order does not restrict or limit the use of confidential discovery material at any hearing or trial, which is expected to be the subject of a further protective order and/or appropriate court orders. Prior to any hearing or trial at which the use of confidential discovery material is anticipated, the parties shall meet and confer regarding the use of the confidential discovery material. If the parties cannot agree, the parties shall request the Court to rule on such procedures.

19. **Discovery Material Not Subject to Confidentiality.** This Order shall not prevent any persons bound hereby from making use of information or documents without the restrictions of this Order if the information or documents are lawfully in their possession and/or lawfully obtained through discovery in this litigation or in any other litigation alleging injuries or damages resulting from the use of Trasyolol in which such information was not designated as “Confidential” or subject to a protective order or confidential treatment, or where there has been a final judgment (including any appeal therefrom) declaring that such information or documents are not confidential.

20. **Rights of Parties.** Nothing in this Order shall limit or circumscribe in any manner any rights the parties may have under common law or pursuant to any statute, regulation or ethical canon.

21. **Attorneys’ Fees.** In any application to the Court referred to or permitted by this Order, the Court may exercise discretion in determining whether the prevailing party in such a dispute may recover costs, including reasonable attorneys’ fees, incurred by it and, if so, the amount to be awarded.

22. **Discovery Material Protected under German Law.** Bayer AG and Bayer HealthCare AG (and any other Bayer entity organized under the laws of Germany that may become a party to this litigation) may designate as CONFIDENTIAL those documents (including electronic or paper form) containing “personal data,” within the meaning of the German Federal Data Protection Act, the confidentiality of which is protected under German law. “Personal data” consists of any and all data which concerns an identified person or a person who is identifiable with recourse to additional information available to the data processor (*e.g.*, reference to an individual by his/her title or position within the company whose identity is

specified in other available sources of information). In particular, this applies to the following documents:

(a) any correspondence (electronic or on paper) which identifies or through recourse to other sources of information available to the data processor allows identification of its author(s)/sender(s) and/or its addressees/recipients, *i.e.*, for example, all email correspondence, letters and faxes (including transmission reports);

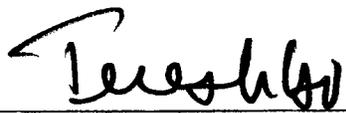
(b) any document such as memoranda, notes, and presentations if they identify or allow identification of its author/sender and/or its addressee/recipient through recourse to other information available to the data processor;

(c) minutes of internal or external meetings as far as they include information about which individual(s) did or did not attend the meeting;

(d) personnel records and information; and

(e) any document containing private medical information.

IT IS SO ORDERED:

 J.

Dated: ~~June~~ July 15th, 2008

IN RE : COURT OF COMMON PLEAS
:
TRASYLOL PRODUCTS LIABILITY : PHILADELPHIA COUNTY
LITIGATION :
: No. _____

ENDORSEMENT OF PROTECTIVE ORDER

I hereby attest to my understanding that information or documents designated Confidential are provided to me subject to the Protective Order regarding confidential information produced in discovery, entered _____, _____ (the "Protective Order"), in the above-captioned litigation; that I have been given a copy of and have read the Protective Order, and that I agree to be bound by its terms. I also understand that my execution of this Endorsement of Protective Order, indicating my agreement to be bound by the Protective Order, is a prerequisite to my review of any information or documents designated as confidential pursuant to the Protective Order.

I further agree that I shall not disclose to others, except in accord with the Protective Order, any confidential discovery material, in any form whatsoever, and that such confidential discovery material and the information contained therein may be used only for the purposes authorized by the Protective Order.

I further agree and attest to my understanding that my obligation to honor the confidentiality of such discovery material and further information will continue even after this litigation concludes.

I further agree and attest to my understanding that, if I fail to abide by the terms of the Protective Order, I may be subject to sanctions, including contempt of court, for such failure. I agree to be subject to the jurisdiction of the Court of Common Pleas of Philadelphia County,

Pennsylvania, for the purposes of any proceedings relating to enforcement of the Protective Order.

I further agree to be bound by and to comply with the terms of the Protective Order as soon as I sign this Agreement, whether or not the Protective Order has yet been entered as an Order of Court.

Date:

By: _____

Subscribed and sworn to before me this
____ day of _____, 2008.

Notary Public