UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
2008 MAR 18 AM 11: 3'
CLEVELAND

IN RE: GADOLINIUM BASED CONTRAST AGENTS PRODUCTS LIABILITY LITIGATION	Case No. 1:08 GD 50000 MDL No. 1909 Judge Dan Aaron Polster

CASE MANAGEMENT ORDER NO. 1:

PRESERVATION OF TISSUE AND RELATED PHYSICAL EVIDENCE

I. SCOPE OF ORDER

1. This Order shall apply to all Plaintiffs and their counsel for actions relating to Gadolinium-based contrast agents ("GBCAs") that are currently pending in MDL No. 1909 or hereafter subject to transfer to these proceedings (collectively, "the MDL proceedings") and all Defendants and their counsel in the MDL proceedings.

II. DUTIES TO PRESERVE BIOPSY AND RELATED EVIDENCE

2. Plaintiffs shall preserve, until further Order of this Court, any and all Tissue in their physical possession. For purposes of this Order, "Tissue" refers to solid tissue samples, solid tissue blocks, solid tissue slides taken for a condition relating to, diagnosing, or treating of NSF or NFD or taken in connection with research, investigation, study or safety surveillance related to exposure to any Gadolinium-based Contrast Agent and reports and analyses performed on such tissue.

3. If Plaintiffs are not in physical possession of such Tissue, Plaintiffs' counsel shall exercise their good faith efforts to identify and promptly request non-party medical

professionals, agents, and consultants who are in possession of Tissue to preserve it. A copy of this Order shall be served with the notice provided to any applicable hospital or healthcare provider, agent, and consultant. Nothing herein should be construed to limit or constrain the ability of a healthcare provider or researcher to do what is necessary with such materials in connection with the care, treatment, and diagnosis of a Plaintiff or to conduct ongoing research that is not conducted at the request of Plaintiffs or their counsel.

4. Defendants shall preserve, until further Order of the Court, all Tissue in their physical possession.

5. If the Defendants are not in physical possession of Tissue, Defendants shall exercise their good faith efforts to request that non-party researchers, agents, and consultants who have obtained Tissue preserve such Tissue until further Order of the Court. Defendants are not required to notify individuals who conducted independent research not at Defendants' request relating to NSF, NSD, or Gadolinium-based Contrast Agents. Nothing herein should be construed to limit or constrain the ability of Defendants to do what is necessary with such materials in connection with research or scientific study of such tissue in the interest of patient safety.

6. The notices provided by the parties pursuant to this Order need not be filed with the Court or disclosed to opposing counsel unless otherwise ordered by the Court. Counsel for the parties shall maintain written copies of such notices until resolution of this litigation. Such communications shall not be deemed a waiver of any attorney work product or any other applicable privilege.

7. Neither this Order nor service of a copy of this Order upon non-parties shall affect any Party or non-party's objections to personal jurisdiction, including any rights to service of

process or subpoenas under applicable law. This Order is not intended to address the discoverability or admissibility at trial of any Tissue. The Parties' rights to object to the discoverability or admissibility of any Tissue under the Federal Rules of Civil Procedure are not impaired in any way by this Order or by sending the required preservation request.

8. This Order does not supplant, restrict, or limit any obligations existing at common, federal, and statutory law in any jurisdiction relating to a party's obligation to preserve objects or things in their possession, custody, or control.

IT IS SO ORDERED.

Dated: March 18, 2008

Honorable Dan Aaron Polster
United States District Judge