

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In re: GADOLINIUM-BASED )  
CONTRAST AGENTS PRODUCTS ) Case No. 1:08-gd-50000  
LIABILITY LITIGATION )  
(MDL No. 1909) ) Judge Dan Aaron Polster  
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THIS DOCUMENT IS APPLICABLE TO: )  
ALL CASES )

**CASE MANAGEMENT ORDER NO. 2**  
**(Establishing Plaintiffs' Steering Committee)**

**IT IS HEREBY ORDERED THAT:**

1. Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, the above-captioned actions, and any subsequently filed or transferred actions related to the claims asserted in these cases, are hereby coordinated for all pretrial purposes. This action shall be captioned "*In re Gadolinium Based Contrast Agents Products Liability Litigation*," and the file shall be maintained under Master File No. MDL No. 1909.

2. This Order, and any additional case management orders entered in this litigation, shall govern each case coordinated in MDL No. 1909.

3. Peter W. Burg of the law firm of Burg Simpson Eldredge Hersh & Jardine and Troy Rafferty of Levin Papantonio Thomas Mitchell Eschner & Proctor shall serve as Co-Chairs of the PSC and Executive Committee. Peter J. Brodhead of the law firm Spangenberg, Shibley & Liber shall serve as Plaintiffs' Liaison Counsel.

4. This Court hereby appoints a Plaintiffs' Executive Committee ("PEC") which shall consist of the following attorneys:

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5. This Court hereby appoints a Plaintiffs' Steering Committee ("PSC") which shall consist of the following attorneys:

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6. This Court hereby appoints the following attorneys as Federal-State Court Liaison  
to the PSC:

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7. Responsibilities of the PSC include:

1. Discovery

(a) Initiate, coordinate, and conduct all pretrial discovery on behalf of all

Plaintiffs who file civil actions in this Court or that are transferred to this Court pursuant to 28

U.S.C. § 1407, which contain any cause of action relating to a Gadolinium Contrast Dye, whether on an individual or class action basis;

(b) Develop and propose to the Court schedules for the commencement, execution, and completion of all discovery on behalf of all Plaintiffs;

(c) Cause to be issued in the name of all Plaintiffs the necessary discovery requests, motions, and subpoenas pertaining to any witnesses and documents needed to properly prepare for the pretrial of relevant issues found in the pleadings of this litigation. Similar requests, notices, and subpoenas may be caused to be issued by the PSC upon written request by an individual attorney in order to assist him/her in the preparation of the pretrial stages of his/her client's particular claims; and

(d) Conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of all Plaintiffs including appointing lawyers to conduct depositions.

2. Hearings and Meetings

(a) Call meetings of counsel for Plaintiffs for any appropriate purpose, including coordinated responses to questions of other parties or of the Court;

(b) Initiate proposals, suggestions, schedules, or joint briefs, and for any other appropriate matter(s) pertaining to pretrial proceedings;

(c) The PSC or lawyers designated by them shall examine witnesses and introduce evidence at hearings on behalf of Plaintiffs; and

(d) The PSC or lawyers designated by the PSC shall act as spokesperson for all Plaintiffs at pretrial proceedings and in response to any inquiries by the Court, subject of course to the right of any Plaintiffs counsel to present non-repetitive individual or different positions as permitted by the Court.

3. Miscellaneous

(a) All communications by Plaintiffs with the Court should be through the Co-Chairs of the PEC or Plaintiffs' Liaison Counsel. If circumstances require direct correspondence with the Court by any individual counsel, copies of any said communications shall be served using the Court's electronic filing system;

(b) The PSC or lawyers designated by them shall submit and argue any verbal or written motions presented to the Court or on behalf of the PSC and all Plaintiffs as well as oppose when necessary any motions submitted by the Defendant or other parties that involve matters within the sphere of the responsibilities of the PSC (this provision does not apply to motions specifically directed to individual plaintiffs and their counsel);

(c) The PSC or lawyers designated by them shall negotiate and enter into stipulations with Defendants' Lead and Liaison Counsel regarding this litigation;

(d) The PSC or lawyers designated by them are authorized to explore, develop, pursue, and recommend settlement options pertaining to any claim or portion thereof of any case filed in this litigation;

(e) The PEC and PSC shall establish committees to enable the orderly and efficient prosecution of these actions;

(f) The PSC or lawyers designated by them shall maintain adequate files of all pretrial matters and have them available, under reasonable terms and conditions, for examination by Plaintiffs or their attorneys;

(g) The PEC and PSC are authorized to call meetings of plaintiffs' counsel when appropriate and to consult with plaintiffs' counsel on matters of common concern;

(h) The PSC or lawyers designated by them shall perform any tasks necessary

and proper for the PSC to accomplish its responsibilities as defined by the Court's orders;

(i) The PSC or lawyers designated by them shall perform such other functions as may be expressly authorized by further orders of this Court; and

(j) Except as to matters relevant only to a specific case, counsel that represent a plaintiff or plaintiffs who wish to initiate discovery or file motions must first seek authorization from the PEC to initiate such motions or discovery. If such authorization is granted, counsel that wishes to initiate discovery or file motions must provide written notification of such authorization within said discovery or motion papers. If after reasonable consultation with the PEC and for good cause, such counsel disagrees with the PEC's determination, then counsel may petition the Court for relief to initiate such discovery or motions.

(k) The PSC or lawyers designated by them shall create a method for reimbursement for costs and/or fees for services will be set at a time and in a manner established by subsequent order of the Court.

8. In addition to serving on the PSC, the responsibilities of Plaintiffs' Liaison Counsel shall include:

(a) To receive and distribute to plaintiffs' counsel, as appropriate, orders, notices and correspondence from the Court;

(b) To coordinate the filing of notices and papers by members of the PEC, PSC and all plaintiffs' counsel, including the designation of responsibilities to encourage the filing of a single set of papers by counsel in situations where such group members have a common position;

(c) To maintain and distribute to the Court, to counsel for plaintiffs, and to counsel for defendants an up-to-date comprehensive Service List of all plaintiffs' counsel;

(d) To make himself available for any telephone conferences convened by the Court and to communicate the substance of any such telephone conference to all other Plaintiffs' counsel;

(e) To receive and distribute pleadings, Orders, and motions to Plaintiffs' counsel by overnight courier service or telecopier within three business days after receipt, unless such service has been waived, in writing, by a receiving counsel;

(f) To maintain and make available to all Plaintiffs' counsel of record at reasonable hours a complete file of all documents served by or upon each party;

(g) To carry out such other duties as the Court may Order; and

(h) Liaison Counsel shall be entitled to seek reimbursement for costs expended at the time and in a manner approved by the Court.

SO ORDERED:

DATED: March 24th, 2008

/s/Dan Aaron Polster  
HONORABLE DAN AARON POLSTER  
UNITED STATES DISTRICT JUDGE