

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: WELDING ROD PRODUCTS) LIABILITY LITIGATION)) _____) THIS DOCUMENT RELATES TO) ALL CASES) _____))))))))	Case No. 1:03-CV-17000 (MDL Docket No. 1535) JUDGE O'MALLEY
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**STANDING ORDER REGARDING PROTOCOL INVOLVING DISPUTES
BEFORE OTHER UNITED STATES DISTRICT COURTS CONCERNING
ENFORCEMENT OF SUBPOENAS**

This matter came before the Court on January 23, 2004. Following a discussion held on the record concerning objections to, or enforcement of, certain Rule 45 subpoenas issued by other United States District Courts, and based on the parties' joint motion for entry of an order, it is hereby ORDERED as follows:

In the event that: (a) a person commanded by a subpoena issued by another United States District Court to produce and inspect documents files a timely objection to that subpoena pursuant to Rule 45(c)(2)(B); or (b) a person commanded by a subpoena issued by another United States District Court to attend and give testimony at a deposition files a timely motion to quash or modify that subpoena pursuant to Rule 45(c)(3); or (c) a Party to the above-captioned litigation ("Welding Rod Litigation") pursues an enforcement action in the district where the subpoena was issued; the Party seeking to enforce compliance with the subpoena is directed by this Court to reference this Order in its own filing made in the district where the subpoena was issued, and attach a copy of this Order to said filing. The purpose of this Order is to ensure that any district court where a Party to the Welding Rod Litigation seeks to enforce a subpoena

issued by that court is informed that:

1. The subpoena in dispute was issued in connection with the cases comprising the Welding Rod Litigation consolidated for pretrial purposes in this Court by Order of the Judicial Panel on Multidistrict Litigation dated June 23, 2003.

2. The discovery disputes that arise in connection with the Welding Rod Litigation involve complex issues whose resolution by various district courts risks inconsistent results and frustration of the goals of judicial economy and efficiency served by consolidation for pretrial purposes.

3. This Court is not only willing but prefers to hear and resolve all discovery disputes that arise in any other United States District in connection with the Welding Rod Litigation. This Court can accomplish this either through its authority as a transferee court under 28 U.S.C. § 1407, or by working cooperatively and in conjunction with the District Court in which any discovery dispute involving a non-party was issued. *See e.g., United States, ex rel. A. Scott Pogue v. Diabetes Treatment Centers of America, Inc., et al.*, 238 F.Supp.2d 270 (D.C. 2002) (discussing authority of transferor courts in connection with non-party discovery disputes in other districts).

4. This Court respectfully requests that district courts faced with discovery disputes related to the Welding Rod Litigation refer such disputes to the undersigned for resolution.


5. Questions regarding this request may be directed to the undersigned either at the Carl B. Stokes United States Court House, 801 West Superior Avenue, Suite 16A, Cleveland, Ohio 44114-1847, or by facsimile to chambers at (216) 357-7246, or by telephone to chambers

at (216) 357-7240.

6. This Court will make every effort to prevent undue hardship to non-parties in other districts and their counsel, including the avoidance of unnecessary travel and expense, and will make every effort to resolve disputes by telephone whenever possible.

7. The Welding Rod Litigation is a priority matter for this Court and, as such, the Court is committed to addressing discovery disputes related thereto as expeditiously as possible in light of the aggressive discovery schedule set forth by the Court.

IT IS SO ORDERED.


KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

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