

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

IN RE: HEPARIN PRODUCTS)
LIABILITY LITIGATION)
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MDL Docket No. 1953
CHIEF JUDGE JAMES G. CARR
CASE NO. 1:08-60000

ALL CASES

**AMENDED PRETRIAL ORDER NO. 12
REGARDING TOLLING AGREEMENT**

Upon the agreement of the Plaintiffs' Executive Committee ("PEC") and Defendants Baxter International, Baxter Healthcare Corporation, Baxter Healthcare Corporation of Puerto Rico, Scientific Protein Laboratories LLC, and Changzhou SPL Co., Ltd. it is hereby ORDERED that the Tolling Agreement attached hereto as Exhibit A is adopted. Any Plaintiff's counsel who agrees to said Tolling Agreement shall execute same and deliver it to Leslie Smith, Counsel for Baxter, who shall execute on behalf of Baxter and return a signed copy to such Plaintiff's counsel. If the Tolling Agreement as to any individual Claimant terminates pursuant to the terms of paragraph 17 of Exhibit A attached hereto, the Claimant may file a lawsuit concerning the claim (pursuant to the terms and conditions set forth in paragraph 13 of Exhibit A attached hereto) within 60 days from date of such termination.

IT IS HEREBY ORDERED, ADJUDGED and DECREED

This 22 day of June, 2009.

s/ James G. Carr

Chief Judge James G. Carr
United States District Cour

HEPARIN MDL 1953 TOLLING AGREEMENT

THIS AGREEMENT is by and between Baxter International, Baxter Healthcare Corporation, Baxter Healthcare Corporation of Puerto Rico and Scientific Protein Laboratories LLC, and Changzhou SPL Co., Ltd. (“Defendants”) and the individual(s) identified on Exhibit A (the “Claimant(s)”), and any person whose claim derives from the ingestion of Heparin by the person(s) identified on Exhibit A (collectively, “the Parties”).

1. The term “Tolling Period” shall be one year from the “Effective Date” identified in paragraph 4.

2. The term “Claims” shall refer to any demands, actions, causes of action, suits, debts, accounts, contracts, damages, claims, equitable remedies, statutory remedies, both in law and equity, relating to or arising out of the use of Heparin contaminated, or alleged to have been contaminated, with over sulfated chondroitin sulfate, whether or not such Claims are liquidated, unliquidated, fixed, contingent, direct, indirect, matured, unmatured, due, ripe, disputed, undisputed, legal, equitable or statutory on behalf of the Claimant and any others whose claims are derivative of the Claimant’s alleged injury from Heparin.

3. The term “Limitations” shall mean any and all time limitations on the assertion, prosecution, filing, or service of any lawsuit in federal court only with respect to the Claims, including any and all statutes of limitations, statutes of repose, time limitations in equity, statutory time conditions on filing suits, laches, and any other time bars.

4. The term “Effective Date” shall be the date upon which this agreement is signed by Liaison Counsel for Claimants.

5. The identity of the Claimants that are subject to this Tolling Agreement are attached hereto as Exhibit A. The Claimant warrants that the information set forth on Exhibit A is true and correct to the best of his or her knowledge, information and belief. Claimant represents that he or she has provided to Defendants all medical records in his or her possession relating to Heparin and the injury for which a Claim is made.

6. Defendants agree to the tolling of the Limitations during the Tolling Period with respect to all Claims held by Claimant, provided, however, that this Tolling Agreement shall not revive existing Claims, if any, that have expired under applicable Limitations prior to the commencement of the Tolling Period. As an example, if any applicable limitation period were to have expired prior to the Effective Date of this Tolling Agreement, then Defendants’ right and ability to assert the Limitations in defense of the Claims is fully preserved.

7. This Tolling Agreement shall not be construed as an admission or indication that Defendants agree that any Claimant has meritorious claims against Defendants.

8. If, after execution of this Tolling Agreement, counsel for Claimant ceases to represent a Claimant, Defendants shall be notified by facsimile or email within five business days. If Claimant or Claimant’s new counsel does not agree to be bound by this Tolling Agreement within ten business days after the

representation terminates, this Agreement shall cease to be effective as to the Claimant.

9. The Parties agree that within sixty (60) days of the Effective Date, each Claimant will complete the Fact Sheet (including the authorizations) approved by Judge Carr in Amended Pretrial Order No. 10 in the In Re Heparin Products Liability Litigation, MDL 1953, (N.D. Ohio), and serve the completed Fact Sheet and signed authorizations on Defendants.

10. If a Claimant fails to complete and serve a Fact Sheet within sixty (60) days of the Effective Date, no tolling under this Tolling Agreement shall apply, and the Limitations shall be deemed to have run without suspension or interruption as if this Tolling Agreement did not exist. A Claimant will only be entitled to a suspension of the Limitations by accurately completing all material questions in the Fact Sheet within the time allotted. If a Claimant serves a deficient Fact Sheet, the Claimant will not be entitled to a suspension of the Limitations period until these deficiencies are corrected.

11. If a Claimant serves a deficient Fact Sheet, Defendants shall notify claimant that claimant's fact sheet is deficient. Claimant will then have a thirty (30) day time period to serve a completed fact sheet to Defendants. If Claimant does not provide a completed fact sheet within the thirty (30) days, no tolling under this Tolling Agreement shall apply, and the Limitations shall be deemed to have run without suspension or interruption as if this Tolling Agreement did not exist.

12. This Tolling Agreement shall be governed by the laws of Ohio, excluding its choice of law rules, and any dispute between the parties arising out of, or as to the meaning or effect of, this Agreement shall be resolved exclusively by the MDL 1953 Court, which shall have personal jurisdiction over the Claimant.

13. If any Claimant files any lawsuit concerning a tolled claim, the Claimant shall file such lawsuit in (i) the federal District where s/he is domiciled or was taking Heparin, and will consent to the transfer of the lawsuit to MDL 1953, or (ii) directly in the Northern District of Ohio. Claimant agrees that when filing a lawsuit in federal court, he or she will not name any non-diverse person as a defendant. If a Claimant files a lawsuit in state court, or resists transfer to MDL 1953 of a case filed in federal court, no tolling under this Tolling Agreement shall apply, and the Limitations shall be deemed to have run without suspension or interruption as if this Tolling Agreement did not exist.

14. The Parties have been represented by counsel of their choice. By executing this Tolling Agreement, counsel for Claimant represents that s/he has entered into a written retention agreement with the Claimant. This undersigned attorney warrants and represents that he or she has the express authority of the Claimant to enter into this Tolling Agreement.

15. This Tolling Agreement contains the entire agreement of the parties. This Tolling Agreement cannot be modified except by a writing signed by the Parties or their attorneys.

16. The Parties hereto agree that the existence and terms of this Tolling Agreement shall be deemed confidential and shall not be disclosed to anyone except as otherwise provided or required by law.

17. The Tolling Period shall terminate upon the earlier of: (1) the date on which any party to this agreement provides written notice to the other party that it is withdrawing from the agreement; (2) the date on which the Claimant files or otherwise commences a tolled cause of action against Defendants; or (3) the one year expiration of the Tolling Period. The Tolling Period can be extended beyond this one year period upon written agreement by all of the Parties.

IN WITNESS WHEREOF, the parties have executed this Tolling Agreement as of this _____ day of _____, 2009.

Attorney for Claimant(s)

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*Attorneys for Baxter International Inc., Baxter Healthcare Corporation,
and Baxter Healthcare Corporation of Puerto Rico,
Scientific Protein Laboratories, LLC, and
Changzhou SPL Co. Ltd.*

EXHIBIT A

Claimant Information

Claimant full name:	Claimant SSN:	Claimant D.O.B.:
Claimant home address:	Claimant mailing address:	
Attorney name:	Attorney phone:	Attorney email:
Attorney firm name:	Attorney address:	
Is Claimant acting as the representative of a patient who took heparin? Yes: <input type="checkbox"/> No: <input type="checkbox"/> <i>(If yes, complete portion below)</i>		
Patient full name:	Patient SSN:	Patient D.O.B.:
Patient home address:	Patient mailing address:	