

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

<b>IN RE:</b>	)	<b>MDL Docket No. 1953</b>
	)	
<b>HEPARIN PRODUCTS LIABILITY LITIGATION</b>	)	<b>CHIEF JUDGE JAMES G. CARR CASE NO. 1:08-hc-60000</b>
	)	
	)	<b>ALL CASES</b>

**AMENDED PRETRIAL ORDER NO. 2**

**I. INITIAL CONFERENCE**

This matter is scheduled for an Initial Case Management Conference on July 9, 2008 at 1:30 p.m. Plaintiffs' Liaison Counsel shall meet and confer in advance with Defense Counsel and shall submit a joint proposed agenda for review by the Court. Such agenda shall be submitted to the Court at least 48 hours prior to the Conference.

Counsel shall familiarize themselves with this District's Local Rules, and with the current edition of the Manual for Complex Litigation, which is hereby adopted by the Court for general guidance. The provisions of this order supersede any inconsistent provisions of this District's Local Rules.

All time limits for responsive pleadings are suspended until after the Initial Conference at which time the Court will set a deadline for responsive pleadings.

All discovery and motion practice is stayed until after the Initial Conference at which time the Court will set a case schedule, with the exception of the issue of a preservation order.

**II. CASE IDENTIFICATION**

The purpose of the following instructions is to reduce the time and expense of duplicate filings of documents through the use of a master case, while at the same time not congesting the

master case with miscellaneous pleadings and orders that are of interest only to the parties directly affected by them.

**A. Master Docket and Record**

For the convenience of the parties and the Court, the Clerk will maintain a master docket with a single docket number and master record under the style: "In Re Heparin Products Liability Litigation," MDL Docket No. 1953, CASE NO. 1:08-hc-60000. When a document is filed and docketed in the master case, it shall be deemed filed and docketed in each individual case to the extent applicable and will not ordinarily be separately docketed or physically filed in any individual cases. However, the caption may also contain a notation indicating whether the document relates to all cases or only to specified cases, as described below.

**B. Captions**

All orders, pleadings, motions, and other documents shall bear the same caption as this Order.

**1. Master Filing**

If the document(s) is generally applicable to all consolidated actions, the caption shall include the notation that it relates to "ALL CASES," and the Clerk will file and docket the document(s) only in the master record.

**2. Separate Filing**

However, if a document is intended to apply only to a particular case or cases, then one case shall be specifically captioned (the primary or first case, if applicable), and all cases to which the document applies shall be listed as "Related Cases" in an appendix to the document, separately tabbed and made easily identifiable to the Clerk of the Court.

### **C. General**

All filings shall be filed electronically using the Case Management/Electronic Case Files system in accordance with the Electronic Filing Policies and Procedure Manual for the United States District Court for the Northern District of Ohio.

Questions about filings in this case may be directed to the MDL clerk, United States District Court

Renee Schumitsh  
MDL Coordinator  
Northern District of Ohio  
Clerk of Court's Office  
(216) 357-7017  
[Renee\\_Schumitsh@ohnd.uscourts.gov](mailto:Renee_Schumitsh@ohnd.uscourts.gov)

A courtesy copy of all documents filed with the Court shall be electronically provided to Liaison Counsel on the day of the filing. Service of all documents not required to be filed with the Court shall be sent electronically to Liaison Counsel for the parties.

### **III. ORGANIZATION OF COUNSEL**

#### **A. Appearances**

Counsel who appeared in a transferor court prior to transfer need not enter an additional appearance before this Court. So long as they have registered to receive and file Electronic Case Filing in this judicial district, attorneys admitted to practice and in good standing in any United States District Court are admitted pro hac vice in this litigation. Association of local counsel is not required.

#### **B. Plaintiffs' Steering Committee.**

The Court intends to appoint a Plaintiff's Steering Committee (PSC) to conduct and coordinate the discovery stage of this litigation, prepare and respond to motions that are related to the group, to generally conduct all phases of pretrial preparation, and to perform such other

duties as may be set forth in future Case Management Orders (“CMOs”). Prior to the initial conference, Liaison Counsel for the plaintiffs shall confer and seek consensus on the structure and makeup of the PSC. In the event such a consensus cannot be reached, Liaison Counsel shall submit the slate of proposed members of the Plaintiff’s Steering Committee and Lead Counsel to the Court on or before July 6<sup>th</sup>, 2008. Absent a recommended slate from Liaison Counsel, applications for the PLAINTIFF’S STEERING COMMITTEE WILL BE LIMITED TO THREE TYPE WRITTEN PAGES AND MUST BE FILED WITH THE CLERK ON OR BEFORE July 6, 2008.

**C. Defendants’ Lead Counsel**

The Following counsel will be the lead counsel for each respective Defendant:

**Baxter International, Baxter Healthcare Corporation and Baxter Healthcare Corporation of Puerto Rico**

Leslie M. Smith, P.C.  
Kirkland & Ellis, LLP  
200 E. Randolph Drive  
Chicago, IL 60101  
lsmith@kirkland.com

**Scientific Protein Laboratories LLC and Changzhou SPL Co. Ltd.**

Leslie M. Smith, P.C.  
Kirkland & Ellis, LLP  
200 E. Randolph Drive  
Chicago, IL 60101  
lsmith@kirkland.com

**D. Liaison Counsel**

Appointment of Liaison Counsel to act as set forth below will facilitate communications among the Court and counsel, minimize duplication of effort, foster the coordination of joint positions, and provide for the efficient progress and control of this litigation.

The following persons are hereby appointed Liaison Counsel:

- a. Plaintiffs’ Liaison Counsel

David W. Zoll  
Zoll, Kranz & Borgess  
6620 West Central Ave.  
Toledo, OH 43617  
(T) (419) 841-9623  
(F) (419) 841-9719  
[david@toledolaw.com](mailto:david@toledolaw.com)

- b. The following counsel will be the liaison counsel for each respective Defendant:

**Baxter International, Baxter Healthcare Corporation, and Baxter Healthcare Corporation of Puerto Rico**

James P. Silk  
608 Madison Avenue, Suite 1000  
Toledo, OH 43604-1169  
JSilk@SpenglerNathanson.com

**Scientific Protein Laboratories LLC and Changzhou SPL Co., Ltd.**

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**B. Braun Medical, Tyco Healthcare Group LP d/b/a Covidien and Medefil, Inc.**

**Non-Baxter/SPL Defendants**

Matthew J. Rohrbacher  
405 Madison Avenue, 8<sup>th</sup> Floor  
Toledo, Ohio 43604-1243  
mrohrbacher@rcmtz.com

Liaison Counsel are vested by the Court with the following responsibilities and duties:

- a. to prepare and maintain an official service list of Plaintiffs' and Defendants' counsel including the persons or companies they represent, upon whom papers shall be served in this litigation;
- b. to receive orders, notices, correspondence and telephone calls from the Court and the Clerk of the Court on matters of general applicability on behalf of all Plaintiffs or Defendants, as the case may be, and to notify such other counsel of such communications as shall be reasonable and necessary;
- c. to convene meetings of counsel, advise parties of developments, and otherwise assist in the coordination of activities and positions;
- d. to act for the group in managing document depositories and in resolving scheduling conflicts; and

- e. to perform such other administrative tasks as may be necessitated by this or future CMOs, by the agreement of the Parties, or by order of the Court.

#### **IV. PRIVILEGES**

The Court recognizes that cooperation among counsel and Parties is essential for the orderly and expeditious resolution of this litigation. The communication, transmission or dissemination of information in connection with this case among the Plaintiffs' counsel, or among the Defendants' counsel, shall not be deemed a waiver of the attorney-client privilege, the protection afforded by the work product doctrine, the protection afforded to material prepared for litigation, the joint prosecution or joint defense privilege, or any other privilege to which a party may be entitled. Cooperative efforts, as described above, shall not in any way be used against any of the Parties, be cited as purported evidence of a conspiracy, wrongful action or wrongful conduct, and shall not be communicated to the jury at the trial of any action. Nothing in this paragraph shall in any way affect the applicability of any privileges or protection against disclosure otherwise available under law.

#### **V. CONFIDENTIALITY**

An order preserving the confidentiality of documents shall be confected jointly by the parties and filed within 21 days after the initial conference. If the parties are unable to agree, they shall file separate motions and proposed orders within ten days after the initial conference.

#### **VI. STATUS CONFERENCES**

The Court will hold periodic status conferences on dates to be determined, but to the extent practicable, no less than every five weeks.

Dated: 2/5/2009

/s/ James G. Carr  

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Chief Judge James G. Carr