

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In Re: ASBESTOS PRODUCTS	:	
LIABILITY LITIGATION (No. VI)	:	Civil Action No:
	:	MDL 875
This Document Relates to those cases	:	
listed on Exhibit A¹	:	

ORDER

By our Order of December 9, 2011 (e.g. 01-MD-875 Doc. No. 8306) (“December 9 Order”) and as explained in our Memorandum Opinion of December 13, 2011 (e.g. 01-MD-875 Doc. No. 8313) (“December 13 Opinion”), we determined that defendants were entitled to the discovery of “materials necessary to measure ‘positive’ and/or ‘negative’ rates,” (December 9 Order at 2, Paragraph 1.c.; December 9 Order at 4, Paragraph 2.c.) and of “materials regarding the daily volume of screenings performed by each diagnosing doctor.” (December 9 Order at 2, n.3.) We further directed the parties “to work together to reach an agreement on the least intrusive, most expeditious way to provide the defendants the information reasonably needed to undertake” these testing exercises. (December 13 Opinion at 10.)

It appears that counsel for each side has made some attempt to engage with each other on the issue but have failed to reach agreement and, as ordered by the Court, have now submitted separate proposed forms of order to effectuate the December 9 Order. We have considered the conflicting proposals, together with the additional submissions of the parties, and the further discussion with counsel at the time of our recorded telephone conference on December 19, 2011, and we now, this **20th day of December, 2011**, enter the following **ORDER**:

¹ This Order applies to all cases currently on scheduling orders within MDL-875, and will apply to those cases subsequently placed on the scheduling orders to be entered this week.

1. **With respect to records to determine “positive” and/or “negative” rates as provided in Paragraphs 1.c. and 2.c. of the December 9 Order:**
 - a. **Dr. Henry Anderson's Positive-Negative Rates:** Dr. Henry Anderson is hereby **ORDERED** to produce to Certain Defendants² on or before January 10, 2012, (i) his x-ray B reading notes of all B readings performed for or at the behest of CVLO, previously estimated by him to be approximately 6,750 B reads, and (ii) his electronic database of his x-ray B readings for all B readings performed for or at the behest of CVLO.³
 - b. **Dr. Alvin Schonfeld's Positive-Negative Rates:** Dr. Alvin Schonfeld and Plaintiffs are hereby **ORDERED** to produce to Certain Defendants on or before January 10, 2012, reports of all x-ray B readings performed by Dr. Schonfeld for or at the behest of CVLO.
2. **With respect to records to determine the daily volume of screenings performed by each diagnosing doctor as provided in Note 3 of the December 9 Order:**
 - a. **Dr. Henry Anderson's and Dr. Alvin Schonfeld's Daily Volume:** Plaintiffs are hereby **ORDERED** to provide to Certain Defendants, on or before January 10, 2012, copies of invoices for services rendered by Dr. Schonfeld and by Dr. Anderson that reference a CVLO client who currently has a case pending in MDL-875 (the “Schonfeld and Anderson Invoices”). To the extent that the Schonfeld and Anderson Invoices contain both names and social security numbers of the CVLO clients who currently have cases pending in MDL-875, the first five digits of the social security number may be redacted (see Paragraph 5 below). To the extent that the Schonfeld and Anderson Invoices contain names and/or social security numbers of any CVLO clients who do not currently have

² General Electric Company, CBS Corporation, Union Carbide Corporation, Bayer CropScience, Inc., Georgia-Pacific LLC, and Owens-Illinois, Inc.

³ It has been represented to the Court that Dr. Anderson has all of his handwritten notes and electronically-stored x-ray B-readings pertaining to all B-readings performed for or at the behest of CVLO organized separately from those files pertaining to other, non-CVLO clients. This Order reflects our belief that providing copies of these documents would not be overly burdensome, particularly where Certain Defendants, through their counsel, have offered to arrange to complete that task at their cost. This burden upon Dr. Anderson will be limited to making the materials available for copying.

Further, this Order reflects our understanding that the electronically-stored x-ray B-readings are stored in batches and those batches pertaining to CVLO clients are, or are capable of being, easily separated from B-reads done by Dr. Anderson of non-CVLO clients. Again, Certain Defendants, through counsel, have offered at their cost, and with monitoring by CVLO and counsel for Dr. Anderson if desired, to make arrangements for the production of this information.

cases pending in MDL-875, the names and social security numbers may be redacted.⁴

- b. **Dr. Ibrahim Sadek's Daily Volume**: Plaintiffs are hereby **ORDERED** to provide to Certain Defendants, on or before January 10, 2012, a copy of CVLO's Invoice Detail List for Dr. Sadek (the "Sadek List"). To the extent that the Sadek List contains both names and social security numbers of the CVLO clients who currently have cases pending in MDL-875, the first five digits of the social security number may be redacted (see Paragraph 5 below). To the extent that the Sadek List contains names and/or social security numbers of any CVLO clients who do not currently have cases pending in MDL-875, the names and social security numbers may be redacted.
3. **Confidentiality of Information Produced**: It is hereby **ORDERED** that all personal information contained in the documents produced pursuant to this Order shall be held by Certain Defendants, and their counsel and expert consultants, as confidential information pending further orders of this Court. Counsel for Certain Defendants (Forman Perry Watkins Krutz & Tardy, LLP, or "Forman Perry") is **ORDERED** to prepare a written statement setting out the circumstances and conditions of this Court's Order with respect to confidentiality, including a paragraph that requires the recipient to acknowledge that he or she understands and accepts the Order and will not disclose any information to anyone other than the attorney and/or members of the attorney's staff, a retained consultant and/or members of the consultant's staff, or any other persons who have a specific need to review the information for purposes specifically associated with this litigation. The statement is to be provided to every individual who will see the information, including every attorney and/or member of the attorney's staff, every consultant and/or member of the consultant's staff, or any other person who will review the information. This written statement can be in the form of a standardized paragraph that need not be particularized to each plaintiff. The parties are further ordered to maintain records of these statements so that they are available for inspection by the Court if needed.
4. **Certain Defendants Assistance With Document Productions**: At the election of any doctor or party who is obligated to produce material pursuant to this Order, Certain Defendants shall provide personnel to review and sort documents (including paper and electronic documents) to identify documents and, as applicable, portions of documents that are subject to production, and to copy documents to be produced to Certain

⁴ At the December 5, 2011 hearing, counsel for Dr. Schonfeld represented to the Court that Dr. Schonfeld has in his possession invoices from 2007 to the present and that he has not kept copies of invoices from earlier periods. Dr. Schonfeld's counsel also stated that he has no objection to the production of invoices from that or any earlier period as long as those invoices relate to work performed for CVLO plaintiffs only.

Defendants as provided in this Order without any cost to the doctors or parties who produce the information.

5. **Redaction of Client-Identifying Information**: Plaintiffs are permitted to redact from any documents ordered to be produced, the names and social security numbers of CVLO clients who do not have cases currently pending in MDL-875. Plaintiffs are also permitted to redact from any documents ordered to be produced, the first five digits of the social security numbers of CVLO clients who currently have cases pending in MDL-875. Plaintiffs will be required to pay the costs associated with redacting any such documents.

BY THE COURT:

/s/ David R. Strawbridge USMJ

DAVID R. STRAWBRIDGE
UNITED STATES MAGISTRATE JUDGE