

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: E. I. DU PONT DE  
NEMOURS AND COMPANY C-8  
PERSONAL INJURY LITIGATION,

Civil Action 2:13-MD-2433  
JUDGE EDMUND A. SARGUS, JR.  
Magistrate Judge Elizabeth P. Deavers

This document relates to: ALL CASES.

**DISCOVERY ORDER NO. 2**

**Plaintiff Procurement Costs of Obtaining C8 Health Project Records From MRC**

During the April 1, 2014 status conference, Defense counsel raised the issue of whether Case Management Order Number 5 (“CMO No. 5”) governs Plaintiffs’ requests to third-party vendor Medical Research Consultants (“MRC”) for C8 Health Project records.

In DuPont’s view, CMO No. 5 is inapplicable given that the C8 Health Project records cost more to obtain than records from Plaintiffs’ treating physicians. DuPont proposes that Plaintiffs seeking to obtain C8 Health Project records from MRC pay \$50, which is half of DuPont’s cost to obtain the records. Plaintiffs object to DuPont’s proposal and contend that CMO 5 governs the procedure and costs for obtaining all records from MRC. The Court agrees with Plaintiffs.

CMO No. 5 provides in relevant part as follows:

**II. Plaintiff Medical Record Procurement by Defendant**

3. DuPont is making arrangements to use a third party vendor, Medical Research Consultants (“MRC”) to procure MDL-2433 plaintiff

medical records.

4. MRC will notify the MDL Plaintiff firm both when requested records are ordered and collected.
5. Once records have been obtained and processed by MRC for the ordering Defense Counsel, MRC will grant access to those records via its secure portal, "MRCRecords" for each MDL Plaintiff firm's pre-authorized attorneys of record, at their cost.
6. No Plaintiff firm is required to use MRC to obtain any record which Defense counsel has ordered. Each firm is free to continue using its own medical record procurement methods, at its own expense, if it so desires.
7. An explanation of the costs, contacts, and procedures for using MRC is attached as Exhibit 1 to this Order.

(CMO No. 5 § II, ECF No. 128.) Exhibit One to CMO No. 5 sets forth the agreed-upon costs for Plaintiffs seeking to obtain their records from MRC as follows:

**MDL Plaintiff Firm Fees:**

**Record Fees**

- **Base Fee:** Per record ordered; covers expense \$25.00 for all activities related to acquisition of the records. Also includes electronic storage, unlimited online access to records, training and support, and local print/download capabilities.

(CMO No. 5 Exhibit One, ECF No. 128.)

The Court finds that CMO No. 5 and Exhibit One to CMO No. 5 govern the procedure and costs for a Plaintiff's firm to obtain records, including the C8 Health Project records, from MRC. CMO No. 5 and Exhibit One to CMO No. 5, read together, clearly identify \$25 as the flat fee an MDL Plaintiff's firm must pay to obtain a record from MRC. The Court therefore rejects DuPont's proposal to charge Plaintiffs a variable rate to obtain records from MRC simply

because its cost to obtain a particular record exceeds the costs it typically pays to obtain records from treating physicians.

**IT IS SO ORDERED.**

4-3-2014  
**DATE**

  

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**EDMUND A. SARGUS, JR.**  
**UNITED STATES DISTRICT JUDGE**

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**ELIZABETH A. PRESTON DEEVERS**  
**UNITED STATES MAGISTRATE JUDGE**