

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

**IN RE: PHILIPS RECALLED CPAP,
BI-LEVEL PAP, AND MECHANICAL
VENTILATOR LITIGATION**

This Document Relates to:

All Actions

Master Docket No. 2:21-mc-1230

MDL No. 3014

PRETRIAL ORDER #27
AUTHORIZING SERVICE THROUGH MDL CENTRALITY
& RELATED PROCEDURES

The Parties have agreed to accept submission and service of Census Registry Forms, Short Form Complaints, Short Form Answers, Plaintiff Fact Sheets, Defendant Fact Sheets, and related documents submitted or produced therewith (such as verifications, authorizations, medical records, insurance records, employment records, and any related or other records accompanying any Census Registry Forms, Plaintiff Fact Sheets or Defendant Fact Sheets) (collectively, the “Documents”) through the online MDL Centrality System, and in the interest of efficiency and judicial economy,

IT IS HEREBY ORDERED that:

1. *Manner of Completion and Service.* Plaintiffs, Potential Claimants, and Defendants shall use the online MDL Centrality System designed and provided by BrownGreer PLC and accessible at www.mdlcentrality.com to complete and serve Documents, as well as such other notices and documents as the Parties may agree, as follows:

- (a) Each Plaintiff or Potential Claimant required to submit a Census Registry Form, Short Form Complaint or Plaintiff Fact Sheet shall, by counsel or as *pro se*, establish a secure online portal in the MDL Centrality online system and obtain authorized usernames and secure login passwords to permit use of MDL Centrality by such counsel or Plaintiff or Potential Claimant. Except as set forth herein, counsel for a Plaintiff or Potential Claimant, or each *pro se* Plaintiff or Potential Claimant, shall be permitted to view, search and download on MDL Centrality

only those materials submitted by that Plaintiff or Potential Claimant, and by Defendants relating to that Plaintiff or Potential Claimant, and not materials submitted by or relating to other Plaintiffs or Potential Claimants.

- (b) Each Defendant shall by counsel establish a secure online portal with the MDL Centrality online system and obtain authorized usernames and secure login passwords to permit use of MDL Centrality by Defendant's counsel. Counsel for Defendants shall have access to and be able to view, search and download all materials submitted by all Potential Claimants and by all Plaintiffs and all Defendants in actions in which that Defendant is named.
- (c) The Plaintiffs' Steering Committee shall have access to and be able to view, search and download all materials submitted by all Plaintiffs, all Potential Claimants, and all Defendants.
- (d) Each Plaintiff, Potential Claimant and Defendant shall use the MDL Centrality System to obtain, complete or upload data, and serve the appropriate Documents online (including the upload of PDFs or other electronic images, photographs and videos of any records or signed verifications required by the Census Registry Forms or Fact Sheets).
- (e) Service of a completed Document shall be deemed to occur when the submitting party has performed each of the steps required by the MDL Centrality System to execute the online submission of the materials, and the submitting party has received confirmation on screen that the Document has been successfully submitted. The records maintained by MDL Centrality concerning service shall be presumed authoritative for purposes of establishing service. Service of a Short Form Complaint in this manner shall be deemed effective service under Fed. R. Civ. P. 4.
- (f) If a party is allowed to, and does, amend a previously served Document, all subsequent versions must be named accordingly (*e.g.*, "First Amended Fact Sheet", "Second Amended Fact Sheet", etc.), and all iterations must remain available and accessible to all Parties to a case through trial, appeal (if any), or other resolution of the litigation.
- (g) The Parties shall work with BrownGreer PLC to facilitate access by the Court to materials submitted to MDL Centrality by Plaintiffs, Potential Claimants and/or Defendants that are requested by the Court.

2. HIPAA Authorizations. By using MDL Centrality, each Plaintiff and Potential Claimant authorizes the disclosure of his or her medical records and other health information submitted as part of the Census Registry Form or Plaintiff Fact Sheet to BrownGreer PLC as the administrator of the MDL Centrality System, the Court, the Plaintiffs' Steering Committee and Defendants, and to the authorized agents, representatives and experts of the foregoing, in accordance with and as permitted by the terms of the Protective Order herein. BrownGreer PLC

shall be responsible for the maintenance and confidentiality of records contained on the MDL Centrality System.

3. *No Impact on the Scope of Discovery.* Use of MDL Centrality shall not be deemed to limit the scope of inquiry at depositions and admissibility of evidence at trial. The scope of inquiry at depositions shall remain governed by the Federal Rules of Civil Procedure and any orders entered by this Court with respect to depositions, and the admissibility of evidence shall be governed by the Federal Rules of Evidence, any evidentiary orders entered by this Court, or applicable state law.

4. *ECF Notifications.* The Clerk of Court shall take all the steps necessary to include BrownGreer as the MDL Centrality Administrator as an interested party for purposes of receiving emailed ECF notifications related to this matter.

5. *Decommissioning.* The Parties shall negotiate the decommissioning of the MDL Centrality System at an appropriate future time, through an Order of the Court.

IT IS SO ORDERED.

DATED: September 21, 2022

/s/ JOY FLOWERS CONTI
The Honorable Joy Flowers Conti
United States District Judge

AGREED TO THIS 20th DAY OF SEPTEMBER, 2022:

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