

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

| | | |
|--------------------------------|---|---------------------|
| ANTONIO TOLBERT, <i>et al.</i> |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| V. |) | Civil Action Number |
| |) | 2:01-cv-1407-UWC |
| |) | |
| MONSANTO COMPANY; AND |) | |
| PHARMACIA CORPORATION, |) | |
| |) | |
| Defendants. |) | |

| | | |
|---------------------------------|---|---------------------|
| GERALDINE OLIVER, <i>et al.</i> |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| V. |) | Civil Action Number |
| |) | 2:01-cv-1407-UWC |
| |) | |
| MONSANTO COMPANY; AND |) | |
| PHARMACIA CORPORATION; |) | |
| |) | |
| Defendants. |) | |

**ORDER APPROVING WINDING UP OF FUND UNDERWRITTEN
BLOOD TESTING OF MINOR CLAIMANTS**

On March 28, 2007, the Claims Administrator submitted to the Court his report with respect to minor claimant¹ blood testing. The Claims Administrator reports that reasonable efforts were made to blood test all minor claimants. The Claims Administrator also tried to provide blood test notices to minor claimants whose addresses were unknown by publishing their names in the Anniston

¹ Born on or after July 1, 1985.

Star and inviting them to be blood tested.

After minor claimant blood testing ended on March 16, 2007, the Claims Administrator reports that the 372 minor claimants listed in Exhibit A (the "Untested Minors") did not get blood tested or accept the optional payment of \$288.50 (the estimated cost of a blood test) in lieu of being blood tested or being paid for the Registered Nurse interview (the "\$288.50 option") by the March 16, 2007 deadline.

On April 27, 2007, J. Richet Pearson, Esq., the Guardian Ad Litem for Children, filed a Response to the Claims Administrator's Report, suggesting that additional efforts be made to locate the Untested Minors because the claimant database is inaccurate and incomplete, and many claimants do not subscribe to the Anniston Star, where the list of Untested Minors who are missing has been posted. The Guardian Ad Litem advocates a more targeted media campaign in her Response, and requests that Untested Minors be given until the end of the Summer to be blood tested before they are disqualified from receiving a blood test paid for by the Tolbert Qualified Settlement Fund. In her Report, The Guardian Ad Litem concludes that, after this additional round of requested blood testing, she would support the Claims Administrator's recommendation with respect to Untested Minors.

The May 16, 2007 Supplemental Report of the Claims Administrator confirms that he had a conference call with the Guardian Ad Litem and Counsel for the Parties on May 7, 2007, to discuss his Report and the Guardian Ad Litem's Response. During the meeting, the Parties confirmed that they do not oppose the relief requested in the Guardian Ad Litem's Response. However, the Supplemental Report relates the Claims Administrator's position that the additional measures outlined in the Response to locate missing Untested Minors to be blood tested exceed the fair notice standards of neutrals of Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950) and

Mennonite Board of Missions v. Adams, 462 U.S. 791 (1983). Therefore, the Claims Administrator has suggested that the additional measures to locate Untested Minors for testing be taken by the Guardian Ad Litem, as the attorney for the Untested Minors, and not the Claims Administrator. The Court agrees.

The Court, having reviewed the March 28, 2007 Claims Administrator's Report, the April 27, 2007 Response of the Guardian Ad Litem, and the Claims Administrator's May 16, 2007 Supplemental Report, and considered all other matters and things that are appropriate, hereby ORDERS, ADJUDGES and DECREES as follows:

1. The Claims Administrators's procedures with respect to minor claimant blood testing are found to be fair and reasonable, and are hereby approved by the Court.
2. The Guardian Ad Litem's Response is well taken as it applies to further measures to be carried out by the Guardian Ad Litem to locate Untested Minors to be blood tested at the expense of the Tolbert Qualified Settlement Fund. The Court hereby approves these additional measures to be taken by the Guardian Ad Litem. The Court further finds that the Guardian Ad Litem has exercised due diligence in locating children claimants and monitoring their being blood tested and paid by the Claims Administrator.
3. The Untested Minors who are neither blood tested nor timely accept the \$288.50 option by August 31, 2007, shall be disqualified from having a blood test performed at the expense of the Tolbert Qualified Settlement Fund, and, instead, will be required either (i) to accept the \$288.50 option in lieu of blood test to satisfy their claim; or (ii) arrange for the minor claimant's own

blood test with test costs² to be paid from the minor's Advance Payment in advance and with the claimant arranging with the Anniston LabCorp facility to have his blood drawn and tested by AXYS, the analytical laboratory analyzing all other minor claimant PCB results, and thereafter providing to the Claims Administrator a copy of the PCB results that comply with the December 29, 2003 Blood Testing Order of this Court (the "blood test option"). Such disqualified Untested Minor claimants reaching age 19 shall receive a letter advising them of these two options, with the letter (i) providing the minor claimant the \$288.50 option form; and (ii) advising the minor claimant of the blood test option.

4. The Claims Administrator shall make all reasonable efforts to notify the 372 Untested Minors of this Court Order within thirty days after the date of this Order. Such reasonable efforts shall include letters to their last known addresses and posting the notification on the Fund website.

DATED this 23rd day of May, 2007.



U.W. Clemon
United States District Judge

² In accordance with this Court's December 21, 2005 Order approving the Final Dividend, the \$288.50 option amount bears interest for minors reaching 19 after March 31, 2006, and thereafter continues to increase, with the resulting amount being called the "COLA'd option amount". In addition, in accordance with this Court's June 16, 2004 Order approving the Claimant Payment Program, the \$500 Advance Payment bears interest for minors reaching age 19 after March 31, 2004, and thereafter continues to increase, with the resulting amount of the Advance Payment being referred to as the "COLA'd Advance Payment". The amount to be received by an Untested Minor electing the \$288.50 option shall equal the COLA'd option amount as of the untested minor's 19th birthday. Likewise, if the untested minor selects the blood test option, this COLA'd option amount shall be deducted from the COLA'd Advance Payment due the Untested Minor electing the blood test option to pay for the blood test option.

Exhibit A

Minor Claimants Who Did Not Appear For A Blood Test or Accept the \$288.50 Payment In Lieu of Blood Test Option

Name

Allen, Nielsha D.

Allsup, Jack Dylan

Almon, Dezion N.

Alston, Danny

Alvies, Brittney

Alvies, Pamela

Armbruster, Hannah S.

Armbruster, Lydia K.

Armbruster, Peninnah P.

Armbruster, Ronetta L.

Ashford, Lakegan

Azmoe, Ricky A., Jr.

Bain, Savannah D.

Banks, Kayla

Banks, Kelli

Banks, Kevin

Banks, Quinette

Barnett, Mary

Beard, Teatro

Beaty, Latisha S.

Bell, Andrea L.

Berry, Christina

Berry, Christopher Jr.

Bolding, Alexis Kevionna

Bolton, Leverah J.

Booth, Tamera

Boyd, Darius P.

Boyd, Stacia Brianna

Brown, Darius M.

Brown, GaDarius

Bryan, Tajzae

Bryant, Mary

Buhl, Eternity

Burnett, Teresa

Burton, Christopher

Burton, Tycianna

Butcher, Dominique J.

Carter, Candice

Carter, Lazette

Chambers, Mia

Chastain, Hannah

Chastain, Jeffrey

Christian, T'anay O.

Christopher, McKenzie

Clark, Austin J.

Clark, Dasia M.

Clark, James

Colbert, Marquez

Colbert, Samaiya J.

Coleman, Shequndra

Conner, Makiyah

Conner, Tiara L.

Conwell, Cedric J.

Cook, Leticia K.

Crawford, KaJuan

Crook, Michael

Crowder, Anthony R.
Jr.

Culver, Terrence
Skylar

Exhibit A

Curry, Addesha
Curry, Miquah
Curry, Timothy M.
Curry, Travis
Dates, Demika S.
Davis, Arlena
Davis, Helena
Davis, Jasmine
Davis, Jessica
Davis, Listae
Davis, Markita
Davis, Tyesha L.
Davis, Tyquaveoni L.
Davis, Tyrus
Delks, Vanessa L.
Deramus, Steven, Jr.
Doss, Thomas Logan
Douglas, Amber
Doyal, Lindsey
Drake, Katilyn V.
Dunn, Travion
Eades, Breanna Y.
Eades, Brinna D.
Eades, Brittney D.
Eason, Kendrick
Edison, Samiah I.
Edwards, Brandon
Edwards, Timothy A.
English, Andre R.

Exhibit A

English, Dentavious
(foster)
English, Harold J.

Fain, Shaniece V.

Fegan, Daniel

Fegans, Amari T.

Fegans, Tiuntaie

Ferrell, Raphael M.

Finnie, Jimmara

Flenord, Destinee L.

Flenord, Eliza D.

Fomby, Armardo

Fomby, Destiny J.

Ford, Landon M.

Fowler, Debraior
Monique
Fowler, Debrasior

Fowler, Dwight Aaron

Frisby, Blake B.

Funderburg, Myriah K.

Gardner, Samantha K.

Garrett, Joseph A.

Gilbert, Kendall B.

Gilliam, Michael D.

Glodder, Aisha

Goins, Brian G. II
Gooden, Knita K.

Gooden, Nataria S.

Groce, Demetris

Harris, Demarcus

Harris, Derricus

Harvey, Cadarius

Exhibit A

Hawkins, Janay M.
Heath, Lee A., Jr.
Heath, Tyhere
Heining, Jordan K.
Hill, James
Hillard, Victoria
Hopson, Christopher B.
Houston, Shacarra
Houston, Sherman
Hrendon, Emilio T.
Hubbard, Jamiya
Hudson, Shandayus R.
Hughes, Curtis
Hughes, Gavin
Jackson, Dataveon
Dashard
Jackson, Desmond
Jackson, Jaren T.
Jackson, K'Yandre
Jackson, Marixa M.
James, Temple
Jelks, Stephon
Jenkins, Jermaine T.
Jenkins, Tatyana A.
Jennings, Jasmine
Jennings, Jordan
Jennings, Stedman A.
Johnson, Alexia M.
Johnson, Alexis R.
Johnson, Jordan T.
Johnson, Kenneth L., Jr.
Johnson, Laquisha
Johnson, Santeria M.
Johnson, Shirell E.
Johnson, Tyrone P.
Jones, Jaquavious

Exhibit A

Jones, Shadrika

Jones, Tinna

Keith, Jermancues

Kelley, Ryan O., Jr.

Kendrick, Ahsley M.

Kendrick, Jennifer

Kendrick, Leonard, Jr.

Kendricks, LaMonte

Kendricks, Shardaricus

Kerr, Andrew

Kimble, Antoine T.

Kimble, Jaquan

King, Tanya

Kirby, Angelika

Kirby, Valeria

Knight, William K.

Knox, Timothy J.

Lancaster, Anthony

Lancaster, LaGlasha

Lane, Arsenia P.

Lee, Brandy S.

Lee, Travis J.

Lewis, Alexis Storm

Lewis, Alyssa Myranda

Lewis, Christopher, Jr.

Lewis, Heather Autumn

Lewis, Jorahja A.

Lewis, Kaitlyn

Lewis, Kyana Leilani

Lewis, Michael Anthony

Lewis, Quendaris

Lewis, Shakira Latese

Lewis, Tahjeira A.

Lindsay, Ryan

Lindsey, Ryan

Long, Bernard

Long, Jaiontae K.

Lowe, Laquar

Lowery, Kianna

Marquittis, Alcanerqua

Exhibit A

Martin, Kaniya
Martin, Shanteria
Mathews, Demarcus V.
McCollum, Scotty, Jr.
McCurty, Totayauana
McDaniel, Raven I.
Miller, Quintarius
Miller, Rashawn Z.
Mims, Montez
Mitchell, Destiny
Mitchell, Samantha
Monroe, Tiffany
Monroe, Xavier
Moore, Christopher J.
Moore, Shemichiko D.
Moore, Sheniqua, Jr.
Morrell, Raisha
Morris, Lakesha
Myriee, Shanika
Nation, Antwan T.
New, Ashley L.
New, Brandi M.
Nickleberry, Everett
Olds, Jeffery D., Jr.
Oliver, Krystal D.
Owens, Jennifer
Parker, Dashia
Parker, Denzel J.
Parker, Emani J.
Parker, Jacobi M.
Parker, Nijia
Parker, Nina
Parks, Shane E.
Patterson, Max JD
Patterson, Shunkrystal T.
Patton, Caelon
Patton, Jasmine
Pendleton, Amber Cierra
Pieper, Jada
Pieper, Rickey
Pope, Reginald

Exhibit A

Powe, Creyana D.

Powell, Adam

Price, Anthony R.

Price, Crystal L.

Prothro, Kayla

Pyles, Malcolm

Pyles, Shanice

Rainey, Joseph

Raney, Dylan T.

Ray, Donald

Ray, Lori A.

Reading, Tasha

Rhodes, Javell Xavier

Rice, Shauntara A.

Richardson, Chante

Richardson, Monique

Richardson, Ryan

Richardson, Samantha

Roberts, Cody A.

Roberts, Jonathan D.

Robinson, B'Angelo

Robinson, D'Angelo

Robinson, Junisa M.

Robinson, Tanarus

Robinson, Tangelia J.

Rogers, Andrew

Rogers, Jalvin

Ross, Shanikra

Rowe, Alfonso D., Jr.

Rudolph, Timmy L, Jr.

Rush, Mahaliek

Satcher, Tylan

Scher, Austin

Scott, Sabian

Shaddix, Brady S.

Simpson, Bryan

Sims, Derricko, Jr.

Sims, Tyler A.

Smedley, Catrice

Exhibit A

Smedley, Danielle
Smedley, Steffon
Smith, Amaya
Smith, Darius J.
Smith, DeShawn
Smith, Jasmine
Smith, Justin
Smith, Kelly J.
Smith, LaDarius
Smoot, Sereanna Anice
Snowden, Dennis Cortez
Spinks, Shakele
Spinks, Shamar
Spinks, Tori
Steed, Janious
Stevens, Seana
Stewart, Dabianna
Stewart, Tommy Travelle
Stewart, Ziagha
Stollings, Daniel Ryan
Stollings, Wyatt Lee
Story, Deron
Story, LaChardes
Stoudemire, Devontae J.
Sturkie, Cholonelliot
Sturkie, Sebastian
Sumlin, Royshun
Swain, Arbian
Swan, Aaron
Swink, Tyesha
Talley, Chantal

Exhibit A

Tarrance, Christianna
Taylor, Antionette K.
Taylor, Donte I.
Taylor, Fredrico Q., II
Thomas, Carlos
Thomas, JeNeka
Thomas, Jimaih
Thomas, Liasamone
Thomas, Rayveyon D.
Thomas, Sara
Thomas, Tiffany
Tignor, Justin
Tillotson, Heather
Tolan, Blaze C.
Townes, Kionna
Turner, Freddie
Turner, Mia
Venson, Cierra C.
Waldrep, Tanna
Walker, Cody L.
Walker, Domonique Y.
Walker, Frederick
Walker, LaTerryca L.
Walker, MarQuez D.
Walker, Natosha L.
Walker, Qu'Shira A.
Walter, Lee
Ware, Tesmai Shaqueria
Washington, Cherrelle

Exhibit A

Washington, Martez

Watkins, Destinee

Weathers, Carlos

Weddington, Nicole
Belinda

Welch, Gregory, Jr.

West, Raylon

West, Reagan

West, Winter

Westbrooks, Kianna D.

Wheeler, Rahka

White, Raquel M.

Whitley, Kevin D.

Whitson, Angel L.

Whitson, Briana M.

Whitson, DeMarcus A.

Whitson, Kevin D.

Williams, Amanda

Williams, Charles

Williams, Christopher

Williams, Christopher L.

Williams, Davante S.

Williams, Glanell

Williams, Janiya

Williams, Matthew D.

Williams, Mya

Williams, Sha'Shanna

Williams, Tim'Esha

Williams, Treshawn

Williams, Weldon, III

Wilson, Daeshawn

Anthony

Exhibit A

Winsley, Kenmonte

Witherspoon, Kierra

Woodard, Bryan

Woodruff, Chania B.

Woodruff, Charles R.

Wordlow, Adrian D.

Wordlow, Andrew, III

Wordlow, Aundralesha

Wycoff, Whitney

Young, AuTravis