

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**In re: PARAQUAT PRODUCTS
LIABILITY LITIGATION**

This Document Relates to All Cases

Case No. 3:21-md-3004-NJR

MDL No. 3004

AGREED DEFENSE MEDICAL EXAMINATION PROTOCOL

On May 3, 2022, the Court ordered Plaintiffs in the cases selected for full work up to submit to medical examinations pursuant to Federal Rule of Civil Procedure 35 and directed counsel to work together to schedule those examinations starting immediately. *See* Doc. 1449. Thereafter, counsel for Plaintiffs and Defendants met and conferred regarding the time, place, manner, and conditions of the examinations, as well as the person(s) who will perform them. *See* Fed. R. Civ. P. 35(a). Plaintiffs and Defendants in this MDL proceeding agree to the following terms to govern the medical examinations ordered by the Court in this matter.¹

Defense counsel shall provide individual plaintiff counsel and MDL Co-Lead Counsel with the name, qualifications, and curriculum vitae of the examiner for each plaintiff at least five days before each scheduled examination. Counsel shall work together to schedule the date, time, and location of each examination. The location shall be within 50 miles of where the plaintiff resides.

The examination shall be a physical examination limited in scope to the neurological injuries claimed by Plaintiffs in this case. The examiner may take the Plaintiffs' history, including environmental, social, occupational, medical and family history, and may inquire as to any topic that in the examiner's judgment is potentially relevant to the diagnosis, progression, or potential

¹ Plaintiffs do not consent to the propriety of these examinations. Because the Court has ordered Plaintiffs to submit to them, Plaintiffs agree only to the terms by which the examinations shall be conducted.

cause of Plaintiffs' neurological condition. However, the examiner shall not inquire about Plaintiff's exposure to paraquat as that information has been provided to Defendants in the Plaintiff's deposition, PFS and PAQ. The examiner may inquire into the Plaintiffs' drug (medication) history and their use of and response to such treatments, as well as any history of exposure to non-medicinal compounds, including recreational drug use via any route. The Plaintiffs shall bring a list of their prescribed medications to the assessment. For example, and without limitation, the examiner shall be entitled to conduct assessments of the patient's cognitive function, mental status, memory, language, executive functioning, visuospatial skills, sensory functioning (*e.g.*, perception of touch, vibration, proprioception (joint position sense) pain, temperature), cranial nerves, motor-system (*e.g.*, muscle strength and tone), motor functioning, coordination, reflexes, plantar responses, gait, and posture. The Plaintiffs may be examined for tremor (rest, action, postural, kinetic), dystonia, and bradykinesia. The examiner may conduct these assessments through physical examination, verbal tests, and/or paper and pencil tests if he/she believes such examination and/or tests would be helpful in forming an opinion regarding each Plaintiff. And the examiner may conduct a general examination of other relevant systems such as the heart, lungs, psychiatric state, etc., in order to assess the potential contribution of co-morbidities to the Plaintiffs' symptoms and signs. The examination shall not exceed two hours in duration. If a Plaintiff takes medication regularly, the Plaintiff shall take such medication as scheduled on the days leading up to and including the date and time of the examination. No party or attendee may videotape or otherwise record the examination. To ensure the comfort of each Plaintiff and to negate any need for disrobing, the Plaintiff shall wear shorts and a short-sleeved shirt to the examination.

The examination will be conducted in person. Each party may have one attorney present at

the examination. In addition, Plaintiffs may bring a family member to the examination. But any attorney or family member who attends shall observe only and not interfere in any way with the examination or communicate with Plaintiffs (or on behalf of Plaintiffs) while the examination is taking place, unless asked to do so by the examiner. All attendees are expected to conduct themselves professionally. Nothing in this agreement precludes Plaintiff's counsel from exercising the right to terminate the examination and seek a protective order pursuant to the Federal Rules of Civil Procedure, if appropriate.

Defendants shall provide Plaintiff's individual counsel and MDL Co-Lead Counsel with a copy of the examination report promptly after it is available.

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CERTIFICATE OF SERVICE

I certify that on June 6, 2022, I electronically filed the foregoing with the Clerk of this Court by using the CM/ECF system, which will provide notice to all users of record.

/s/ Ragan Naresh
Ragan Naresh