

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 1:08-MD-01928-MIDDLEBROOKS/JOHNSON**

IN RE TRASYLOL PRODUCTS LIABILITY  
LITIGATION — MDL-1928

This Document Relates to All Actions

**STIPULATED ORDER GOVERNING DEPOSITIONS  
OF WITNESSES OUTSIDE OF THE UNITED STATES, INCLUDING APPOINTMENT  
OF SPECIAL MASTER**

Plaintiffs and defendants in this multidistrict litigation (the “Parties”) have agreed to the following protocol for the depositions of defendants’ witnesses outside of the United States (the “Depositions”). The protocol is incorporated in this order. To the extent that this protocol may be inconsistent with section IX of Pretrial Order No. 4 (entered May 22, 2008), this protocol shall govern the depositions of defendants’ witnesses outside of the United States in the Trasylo<sup>®</sup> MDL.

1. **Deposition Location.** The Depositions will be held at Freshfields Bruckhaus Deringer, Strawinskylaan 10, 1077 XY Amsterdam, the Netherlands, or at another location to which the Parties may agree.
2. **Scheduling.** The Depositions will run on a single track from April 21 through May 24 as follows:

April 21, 22, 23, and 24	Kuno Sprenger
April 27, 28, and 29	Tomasz Dyszynski
April 30 and May 1	Michael Devoy

May 2, 3, 4, and 5	Ernst Weidmann
May 6, 7, and 8	Max Wegner
May 22, 23, and 24	Kemal Malik

The Parties have agreed to these allocated times taking into account the need for translation for witnesses who will not be testifying in English. Any party may cross-notice the Depositions in other cases involving Trasylol®.

3. Time Allocation. Except as otherwise agreed by the Parties with respect to a specific deposition, each deposition shall proceed as follows: The witness will be examined on consecutive days as specified in Paragraph 2 above or as agreed to by the Parties, commencing at 9:00 a.m. and concluding no later than 5:30 p.m. Amsterdam time each day. Examination by plaintiffs shall continue from day to day until the examination is complete. Defendants shall have a meaningful opportunity to examine each witness at the conclusion of plaintiffs' examination. The plaintiffs' and defendants' examinations of each witness, including any recross and redirect, shall be completed within the schedule set forth above at Paragraph 2 of this Order. Except as otherwise agreed by the Parties with respect to a specific deposition, defendants shall be granted not less than 4 hours of deposition time (including time required for translation) for examination of deponents Sprenger and Weidmann, not less than 3 hours of deposition time (including time required for translation) for examination of deponents Dyzsynski, Wegner and Malik, and not less than 2 hours of deposition time for deponent Devoy.
4. Advance Notice of Foreign Language Documents. Each party shall provide to the other party, at least 48 hours in advance of a deposition, notice (by copy or by

document production numbers) of all documents in languages other than English which the party reasonably anticipates using in examination of deponents Devoy and Malik, other than for impeachment.

5. **Appointment of Special Master To Preside.** The Honorable John W. Borg of Edina, Minnesota, is hereby appointed pursuant to Federal Rule of Civil Procedure 53 as Special Master to preside at the Depositions and to resolve disputes between the Parties that arise in the course of the Depositions.
  - a. The Special Master is directed to resolve disputes which the Parties are unable in good faith to resolve between themselves concerning the timing, logistics, and conduct of the Depositions.
  - b. In resolving such disputes, the Special Master shall have the full authority provided for in Rule 53(c) and may adopt any procedures not inconsistent with Rule 53 or with orders of this Court.
  - c. If a dispute arises concerning a decision of the Special Master, at the request of a party the Special Master shall, or on his own initiative the Special Master may, issue findings of fact (if any) and conclusions of law on the record or, at his discretion, in a written order to be promptly filed with the Court and served on the Parties. A party may file objections to the Special Master's findings of fact, if any, and conclusions of law within ten days after (i) the date on which the written order is served or (ii) the date on which a final transcript of the applicable deposition testimony is provided to the Parties. The Special Master's findings of fact shall be reviewed for clear error only.
  - d. The Special Master shall not act as an advocate, representative, fiduciary, or counsel for any party.
  - e. The Special Master may not communicate ex parte with the Court or with any party or counsel for any party concerning any matter (i) that is likely to be the subject of a ruling by the Special Master, or (ii) related to the merits of the Trasylol® litigation.
  - f. The fee for the Special Master shall be \$395.00 per hour. Plaintiffs and defendants shall share equally the Special Master's fee and the reasonable costs and expenses incurred by the Special Master in attending the Depositions, including airfare (business class), ground transportation, meals, and hotel costs. The Special Master shall submit his invoices to

Liaison Counsel and Lead Counsel for defendants and plaintiffs as identified in Pretrial Order No. 4 (entered May 22, 2008).

Pursuant to Rule 53(b), the Special Master is hereby directed to proceed with all reasonable diligence to perform the duties set forth above.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 17 day  
of April, 2009.



DONALD M. MIDDLEBROOKS  
UNITED STATES DISTRICT JUDGE