

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IN RE: FRESENIUS	:	MDL NO. 1:13-MDL-2428-DPW
GRANUFLO/NATURALYTE DIALYSATE	:	
PRODUCTS LIABILITY LITIGATION	:	
	:	
This Document Relates to:	:	
	:	
<i>All Cases</i>	:	
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~~PROPOSED~~ CASE MANAGEMENT ORDER NO. 9  
(PRODUCT IDENTIFICATION)

This Case Management Order applies only to cases in this MDL where the allegedly injured party was a patient who last dialyzed at a Fresenius Medical Care North America (“FMCNA”) dialysis clinic prior to the injury or death giving rise to the lawsuit. For any such case in which the Plaintiff seeks identification of the acid concentrate product (*i.e.* GranuFlo or Naturalyte) used in the last hemodialysis treatment prior to the alleged injury or death, the parties shall follow the procedures set forth herein.

1. Plaintiff shall, at the time of submission of his or her Plaintiff Fact Sheet (“PFS”), separately request that FMCNA provide the information described in paragraph 3 below by submitting a written request via electronic mail to [GranuFloProductIDRequest@collorallp.com](mailto:GranuFloProductIDRequest@collorallp.com). Along with this request, Plaintiff shall submit:

- (a) A completed electronic template in the form provided by FMCNA containing the following information: Patient’s First Name, Last Name, Middle Initial, Appellation if any, FMCNA Medical Record Number (“MRN”) if available, Social Security Number, Date of Birth, Date of Injury or Death, Date of Last Dialysis Treatment, the Name and

Address of the Named Facility identified in Section IV.2 of the Plaintiff's Fact Sheet, Case Number, and Plaintiff's Counsel (the "Electronic Template"); and

(b) A duly executed HIPAA release limited in scope to the information described in paragraph 3 below.

2. If the information in the Electronic Template is incomplete or inaccurate, FMCNA will notify counsel for the Plaintiff of the specific deficiency/inaccuracy and will not undertake to provide the information described in paragraph 3 below until such time as the deficiency/inaccuracy is cured by the Plaintiff.

3. Within fourteen (14) days of the first Friday following receipt of the request, complete Electronic Template, and executed HIPAA form, FMCNA shall provide the following information :

(a) For a patient who received his/her last dialysis treatment prior to death/injury at an FMCNA clinic utilizing the Proton system, FMCNA will identify the last "acetate value" for that patient reflected in its "Data Warehouse" prior to injury or death<sup>1</sup>;

(b) For a patient who received his/her last dialysis treatment prior to death/injury at an FMCNA clinic utilizing the eCube system, FMCNA will identify the last "concentrate identifier" for that patient reflected in its "Data Warehouse" prior to injury or death<sup>2</sup>.

4. The information required by paragraph 3 above shall be provided by FMCNA electronically in the form of a letter signed by a duly authorized representative of FMCNA under the penalties of perjury indicating; (a) that a query was made of FMCNA's "Data Warehouse" for the requested information; (b) the result of the query; (c) verification that, to the best of the

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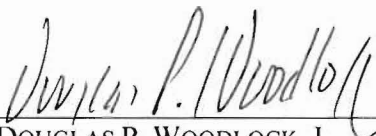
<sup>1</sup> An acetate value of "8" indicates GranuFlo.

<sup>2</sup> A concentrate identifier that begins with "G" indicates GranuFlo and a concentrate identifier that begins with "N" indicates NaturaLyte.

FMCNA representative's information and belief, the query was accurately performed based on the information supplied by the Plaintiff; and (d) that the result provided accurately reflects the information contained in the "Data Warehouse."

5. Nothing in this Case Management Order shall relieve any Plaintiff from the obligation to submit a complete Plaintiff Fact Sheet per Case Management Order No. 6.

**SO ORDERED** this 5<sup>th</sup> day of March, 2014.

  
DOUGLAS P. WOODLOCK, J.

