



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

IN RE: ASBESTOS LITIGATION

C.A. No. 77C-ASB-2

STANDING ORDER NO. 1 – Amended October 10, 2013

PREAMBLE

WHEREAS, this amended Standing Order No. 1 (hereinafter “Order”) is intended to promote the efficient and expeditious litigation of claims related to asbestos exposure that have been or will be asserted and alleged in the Superior Court for the State of Delaware and this Order is intended to supplement and support the Rules of Civil Procedure for the Superior Court of the State of Delaware (“Rules of Civil Procedure”).

WHEREAS, this Order and the deadlines set forth herein, shall be interpreted in accordance with applicable Rules of Civil Procedure and the Delaware Uniform Rules of Evidence (“Rules of Evidence”) and are intended to facilitate the orderly and efficient exchange of relevant information and evidence in preparation for trial, and further this Order does not deprive or disturb the right of any party to request extensions and exceptions and such rights shall be the same as under any other civil litigation in the Superior Court of the State of Delaware or any applicable civil rule, which extensions and exceptions may be granted where the requesting party has been reasonably diligent and there is no unfair prejudice to any other party.

WHEREAS, discovery in asbestos actions subject to this Order shall proceed in accordance with the provisions of this Order, the Rules of Civil Procedure and Rules of Evidence and is subject to the same, all parties are permitted to utilize any and all allowable discovery methods in any and/or all asbestos actions, whether or not expressly permitted by this Order; however, all parties are required to review and consider all previous discovery and responses thereto in order to avoid duplication.

WHEREAS, the entry of this Order shall not: (1) require any party or parties to revise, amend or supplement any completed actions in any case pending as of the date of entry of this Order; (2) create any retrospective or retroactive default or forfeiture; (3) revive any deadline which expired prior to its effective date, except that any opportunities for conducting discovery, which closed less than 30 days prior to the effective date of this Order, are reopened in accordance with the deadlines provided herein, and further this Order shall not affect in any way any claim, discovery position or affirmative defense heretofore asserted by any party in any pending asbestos action, including, but not limited to, jurisdictional defenses, nor shall this Order disturb any rulings made by the Court prior to entry of this Order.

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WHEREAS, to expedite the proceedings in all asbestos actions filed in this Court by coordination of and cooperation in the filing of cases, submission of and response to initial written discovery, the scheduling of motions, in briefing, in later discovery, in oral argument and in other pretrial procedures:

**IT IS HEREBY ORDERED**, as follows:

1. Except as to those standard forms of discovery requests approved and mandated by prior versions of this Order and which remain so approved and mandated until further Order and which are attached hereto as Exhibit "A" (Standing Order No. 1 Interrogatories and Requests for Production Directed to Plaintiffs) and as Exhibit "B" (Standing Order No. 1 Interrogatories and Requests for Production Directed to Defendants), all prior versions of this Standing Order are vacated and superseded by this Order. Previously issued Standing Orders vacated by earlier versions of this Order remain vacated. The time provisions of this Amended Standing Order No. 1 shall not reopen any expired period which required that certain actions be taken within a time period provided by the previous version of this Standing Order No. 1.

2. Any case where the primary issue is alleged damage to property or alleged personal injury related to asbestos or asbestos-containing products (an "asbestos action") shall be docketed initially in the Superior Court for New Castle County and shall not be filed in the Superior Court in and for Kent or Sussex Counties or any other State court. If, however, an asbestos case is filed in a Delaware State court other than the Superior Court in New Castle County, said filing shall be forwarded without need for Order of the Court to the Prothonotary for New Castle County and be afforded the filing date on which it was originally filed in the other court. Notice of said forwarding and filing shall be given to plaintiff within 5 business days.

3. When a cause is filed in this Court which alleges that the plaintiff or plaintiffs therein have suffered injury or damages as a result of the exposure of the plaintiff or plaintiffs or any third party to a product which contains an amount of asbestos [an "asbestos action"], the plaintiff or plaintiffs and any third-party plaintiffs in such asbestos actions shall, in addition to complying with the other applicable civil rules of this Court, attach and file the Notice attached hereto as Exhibit "C" which shall be served with all copies of the Complaint or third-party Complaint.

4. Each asbestos action filed hereafter shall consist of one plaintiff or the personal representative and/or relatives claiming wrongful death of a deceased person and his or her spouse who has a claim for loss of consortium. No permissive intervention of additional plaintiffs will be permitted, except by a person who moves to intervene within 60 days after the filing of the original Complaint asserting that an injury resulted from exposure to asbestos transmitted by the original plaintiff.

5. Unless otherwise modified by this Standing Order No. 1, the applicable Superior Court Civil Rules shall apply to all asbestos actions. In addition to complying with the applicable Civil Rules of this Court, each asbestos action Complaint shall contain the following:

- (a) The full and precise name, date of birth, and current address (City and State) of the plaintiff alleging exposure to asbestos;
- (b) A clear statement as to each and every exposure to asbestos alleged and, as to each such allegation;
  - (1) A statement as to the type of the exposure (e.g., occupational, bystander, household, environmental);
  - (2) A statement as to the time or time frame of the exposure (e.g., June 1964 to September 1969);
  - (3) A statement as to the where the exposure occurred (e.g., Acme Widget Company plant in Charlotte, North Carolina);
  - (4) A statement as to the nature of such exposure (e.g., while working on steam pipes employed by \_\_\_\_; standing near insulators doing laundry of \_\_\_\_ who was employed as a \_\_\_\_ for \_\_\_\_ at \_\_\_\_).
  - (5) An identification of the product(s) or of the type of product(s) to which the plaintiff claims exposure with as much specific and/or identifying information as to the product(s) or type of product(s) as is available.
- (c) To the extent that exposure to asbestos is alleged to have occurred in jurisdictions other than Delaware, a clear and concise statement designating the substantive law or laws which plaintiff believes is applicable to the claims asserted.

6. Plaintiff's counsel shall take the initial steps required to effect service on all defendants immediately upon the filing of the Complaint and shall do whatever is necessary to secure service of process upon all defendants. Motions seeking to extend time for service of process will be granted only when accompanied with a showing of good cause and diligent efforts to comply with this provision of this Order.

7. Plaintiff shall file responses to the form interrogatories and requests for production approved and mandated by this Order (Exhibit "A") and shall serve Defense Coordinating Counsel with electronic or paper copies thereof along with electronic or paper copies of all documents and materials produced therewith within sixty (60) days after filing the Complaint. However, in the event of a request for the deposition of an exigent plaintiff, responses to the form interrogatories and requests for production shall be served on Defense Coordinating Counsel no later than ten (10) days before the deposition. Plaintiff shall file an electronic notice to all other parties indicating that such materials have been sent to Defense Coordinating Counsel. Until completion of trial, plaintiff shall supplement its responses as additional information or documents are received. Also within 60 days of the filing of an asbestos action, plaintiff shall serve upon the Defense Coordinating Counsel the following:

- (a) A properly executed and Health Insurance Portability and Accountability Act ("HIPPA") medical authorization as attached as Exhibit "D" permitting Defense Coordinating Counsel to obtain any and all medical, pathological, and radiological records and materials;
- (b) A properly executed authorization as attached as Exhibit "E" permitting Defense Coordinating Counsel to obtain any and all of plaintiff's employment records and materials;
- (c) A properly executed authorization as attached as Exhibit "F" permitting Defense Coordinating Counsel to obtain any and all of plaintiff's military service records and materials;
- (d) A properly executed authorization as attached as Exhibit "G" permitting Defense Coordinating Counsel to obtain copies of Social Security Administration earnings records concerning plaintiff;
- (e) A properly executed authorization as attached as Exhibit "H" permitting Defense Coordinating Counsel to obtain copies of Social Security Administration claims and award records concerning plaintiff;
- (f) Copies of all medical records in the possession of plaintiff's counsel and copies of all reports of medical experts relied on by the plaintiff in the filing of the suit to establish the existence of any asbestos-related disease or injury, which records and reports shall be supplemented seasonably up to the time of trial.
- (g) If economic loss is claimed, a copy of the plaintiff's Federal income tax records for the five years prior to the year when the asbestos action was filed and a properly executed authorization for income tax records for the same period as attached hereto as Exhibit "I".
- (h) Copies of all other expert reports specific to the plaintiff including, but not limited to, economist's reports with electronically filed notice to all other parties indicating that such materials have been sent to the Defense Coordinating Counsel.
- (i) All x-rays, CT Scans, MRIs, or other radiographic or diagnostic films which films shall be supplemented seasonably by delivery to Defense Coordinating Counsel up to the time of trial.
- (j) All pathology slides, blocks, or other materials which materials shall be supplemented seasonably by delivery to Defense Coordinating Counsel up to the time of trial.
- (k) Copies of all claim forms and related materials related to any claims made by plaintiff wherein plaintiff directly or indirectly asserts, suggests, advocates, or requests investigation into potential entitlement to

compensation or benefits of any type as a result of exposure to and/or injury related to asbestos. This shall include, but is not limited to, copies of all materials related to applications for Social Security benefits, worker's compensation benefits, military service benefits, disability benefits, and claims made to trusts for bankrupt asbestos litigation defendants. As to asbestos trust claims, compliance with this provision requires production of executed proofs of claim together with all materials used to support such claim, all trust claims and claim material, and all documents or information relevant or related to such claims, including but not limited to work histories, depositions, testimony of plaintiff and others, and medical records and documentation. Such materials shall be supplemented seasonably up to the time of trial.

- (l) Copies of Social Security records in the possession of plaintiff's counsel indicating plaintiff's employment and earnings history.
- (m) If secondary exposure is claimed through occupational exposure of third-parties, work histories for each such third-party and copies of Social Security records in the possession of plaintiff's counsel indicating plaintiff's employment and earnings history.

Plaintiff shall supplement seasonably and update the production mandated above up to and including the time of trial. Any additional original authorizations reasonably requested by Defense Coordinating Counsel shall be supplied within 15 days of request. Defense Coordinating Counsel shall seasonably, on behalf of all defendants, make all information and materials gathered through use of the authorizations provided pursuant to this paragraph of this Order available to plaintiff or plaintiff's counsel.

Plaintiff counsel shall notify Defense Coordinating Counsel within a reasonable time after learning of the death of any plaintiff alleging exposure and shall thereafter provide a copy of the official Death Certificate and new authorizations as set forth above and as executed by the Executor or Administrator of the deceased plaintiff's Estate along with Letters Testamentary or other suitable form of proof of authority to execute authorizations.

Information obtained through authorizations shall not be disclosed to anyone other than attorneys and their employees, the parties, their litigation coordinators and the parties' expert witnesses and the parties' insurance carriers in asbestos cases filed in this Court or in the United States District Court for the District of Delaware.

8. Upon effective service of process, a defendant in an asbestos action shall or otherwise plead in conformance with the Rules of Civil Procedure. Defendant's Answer shall include a clear and concise statement in response to the plaintiff's statement designating the substantive law or laws which plaintiff believes is applicable to claims asserted against the defendant. To the extent a motion is filed in lieu of an Answer, such motion shall contain the same responsive statement as would have been contained in an Answer. Defendants' response to plaintiff's statement shall have no effect upon the motion filed in lieu of an Answer or the grounds for such motion.

9. The Prothonotary shall maintain a master asbestos file which shall be designated as "MASTER ASBESTOS FILE NO. 77C-ASB-2" and which shall contain and be used for litigation-wide filings.

(a) All standardized pleadings and forms heretofore permissible and filed to date shall remain in force and effect. Complaints and Answers shall comport with the Rules of Civil Procedure and, to the extent applicable, to the provisions of this Standing Order No. 1.

10. Within 30 days after the filing of an Answer or other response to a Complaint in an asbestos action, defendant shall serve upon plaintiff's counsel that defendant's responses to those discovery requests approved and mandated by this Order (Exhibit "B").

11. Subject to any other deadlines contained in this Order or in other applicable Orders and any other provisions expressly addressing discovery matters, discovery shall proceed in accordance with the applicable Rules of Civil Procedure and the Rules of Evidence. Subject to the same, all parties are permitted to utilize any and all allowable discovery methods in any and/or all asbestos actions; however, all parties are required to review and consider all previous discovery and responses thereto in order to avoid duplication. Further, no party shall serve discovery upon any other party until it has responded to the standard discovery requests mandated by this Order (Exhibit "A" and/or "B"). Nothing contained herein shall preclude any party from applying to the Court for a protective order or motion to compel in reference to any discovery.

12. The Court shall set matters for trial on a periodic basis. Except for good cause shown, or in the event of a claimed exigency:

(a) no matter shall be set for trial less than 430 days from the date on which it was filed.

(b) the number of cases initially set for trial on any trial date shall be limited to twenty-two (22) and, absent unusual circumstances, shall include cases filed by no more than four (4) plaintiffs' firms. Once matters are set for trial, any party wishing to modify such settings shall proceed pursuant to the provisions of Paragraph 3 of the Master Trial Scheduling Order.

13. There shall be a Master Trial Scheduling Order developed, maintained, and published by the Court. The Master Trial Scheduling Order shall list trial dates when at least one Judge of this Court shall be available to conduct trials in one or more of the asbestos actions docketed for that trial date. The pretrial activities of each case set for trial on a trial date within the Master Trial Scheduling Order shall be controlled by the Trial Schedule Abstract issued pursuant to General Scheduling Order No. 1 as issued contemporaneously with the issuance of this Order. The Master Trial Scheduling Order issued and maintained by the Court shall include a Table of Trial Schedule Abstracts.

14. Within 60 days of the date of this Order counsel for plaintiffs and defendants shall prepare the standard witness and exhibit lists used in these matters. Plaintiffs' counsel shall provide copies thereof, along with copies of all documents and materials produced therewith, to Plaintiffs' Coordinating Counsel who shall maintain and make same available to all parties upon

request. An electronic notice of such production shall be filed in the Master Asbestos File. Thereafter, plaintiffs may refer defendants to such standard witness and exhibit lists and shall supplement such standard witness and exhibit lists seasonably. Defense counsel shall provide copies thereof, along with copies of all documents and materials produced therewith, to Defense Coordinating Counsel who shall maintain and make same available to all parties upon request. An electronic notice of such production shall be filed in the Master Asbestos File. Thereafter, defendants may refer plaintiffs to such standard witness and exhibit lists and shall supplement such standard witness and exhibit lists seasonably.

15. There shall be a coordination of plaintiff and defense efforts and all parties and counsel shall cooperate with and participate in such coordinated efforts. The Court expects that, through Coordinating Counsel, there will be coordinated efforts by and between parties and their counsel as to any issues arising throughout the course of this litigation as well as with regard to specific cases. With the exception of party-specific issues wherein counsel shall communicate directly, it is expected that counsel shall cooperate and work with and through Coordinating Counsel and are not obliged to duplicate efforts.

Plaintiffs' efforts shall be managed by a Plaintiffs' Coordinating Counsel. **Thomas C. Crumplar, Esq.** is hereby appointed Plaintiffs' Coordinating Counsel. Defendants' efforts shall be managed by a Defense Coordinating Counsel. **Loreto P. Rufo, Esq.** is hereby appointed Defense Coordinating Counsel. All parties to this litigation will participate and cooperate with the efforts of Coordinating Counsel, who serve at the pleasure of the Court.

Unless expressly noted to the contrary, filings, correspondence, reports, and other communication by and through Coordinating Counsel shall be deemed made on behalf of plaintiffs or defendants as a group and it shall not be necessary for any individual plaintiff or defendant to join in or adopt any communications by Coordinating Counsel. Individual parties maintain the right to supplement any communication by their Coordinating Counsel and/or to disagree or affirmatively opt out of any such communications.

Coordinated actions of the plaintiffs or defendants, their counsel, or their agents or designees authorized by this Order or otherwise authorized by the Court shall not be a basis for or be evidence to support a claim in any action in this Court or any other court asserting conspiracy or other unlawful concerted activity on the part of any party or any group of parties or counsel.

In addition to the general duties and responsibilities described above, Coordinating Counsel shall be responsible for creating, maintaining, and ensuring open and meaningful lines of communication. The duties and responsibilities may be supplemented by the Court where appropriate. Coordinating Counsel shall also serve as a conduit for communications between the Court and counsel. Defense Coordinating Counsel shall have additional responsibilities including:

- (a) Collecting all materials provided by plaintiff pursuant to the terms of this Standing Order and making such materials available to all defendants upon request.

- (b) Maintaining a library and central depository for litigation transcripts and other materials being the property of the defense bar and previously maintained by what defense counsel referred to as the "Steering Committee."
- (c) Using authorizations mandated by this Standing Order, gathering plaintiff's medical records, pathology materials, diagnostic materials, employment records, and other records required or desired by defendants and making such materials available to all defendants upon request.
- (d) Conducting periodic meetings with defense counsel to discuss individual cases and coordinate defense efforts and activities including joint neutral medical defense development. With regard to joint neutral medical defense development, Defense Coordinating Counsel shall:
  - (1) Retain appropriate examining and/or reviewing physicians and other expert witnesses;
  - (2) Secure expert reports, distributing such reports to individual defendants, and producing such reports to Plaintiffs' counsel;
  - (3) File Medical Witness & Exhibit Lists on behalf of all defendants;
- (e) Maintaining open lines of communication and information sharing among defendants and insuring a coordinated effort among defendants.
- (f) Managing the defense calendar of scheduled events including depositions, Court appearances, and applicable deadlines, except for defendant-specific issues and witnesses such as 30(b)(6) witnesses wherein individual defendants shall work directly with individual plaintiff counsel.
- (g) Arranging, noticing, and making payment of Court Reporter, videographer, site, and other costs and expenses associated with defense-noticed depositions.
- (h) Establishing a Lead Defense Counsel responsible for conducting depositions on a date, time, and location mutually agreed to by Defense Coordinating Counsel and plaintiff's counsel.

Plaintiffs Coordinating Counsel serves as a "volunteer" and is not entitled to any compensation or fee share from any party for serving in that capacity. Plaintiffs are free to reimburse or compensate Plaintiffs' Coordinating Counsel for services but are not required to do so unless otherwise agreed among themselves or ordered by the Court.

Defense Coordinating Counsel's fees, costs, and expenses shall be billed to individual defendants based upon their involvement in individual cases such that defendants in any case shall pay their per-capita share of fees costs and expenses incurred in that case. General and administrative fees, costs, and expenses (including fees, costs, and expenses attributable to



accounting functions) shall be posted to a general account. All defendants remain responsible for paying a per capita share of fees, costs, and expenses in any individual case incurred while they remain a viable defendant in such case until the expiration of a ten day period following Defense Coordinating Counsel's receipt of a written notice that they have been dismissed from the case. Each defendant shall submit to Defense Coordinating Counsel, on a monthly basis so that it is received on or before the last business day of each month, a listing of all cases in which that defendant is involved. Defense Coordinating Counsel fees shall be set at \$275 per hour for attorney time and \$135 per hour for paralegal time. Photocopying by Defense Coordinating Counsel shall be billed at the rate of \$0.15 per page. Postage and delivery charges incurred by Defense Coordinating Counsel shall be billed at the figures actually incurred. Any Defendant who becomes ninety (90) days past due on payment of bills shall be responsible for interest at the rate of 12% per annum on unpaid balances. Any defendant who becomes more than one-hundred twenty (120) days past due on payment of bills shall, in addition to interest at the rate of 12% per annum, be subject to a Motion filed with the Court by Defense Coordinating Counsel seeking an Order that: (1) such Defendant is not entitled to use of or reliance upon any Defense Coordinating Counsel work product; (2) such defendant is excluded from all defense coordination activities; (3) such defendant pay monies required to bring its account current within ten days, and; (4) such defendant pay Defense Coordinating Counsel's fees, costs, and expenses associated with the filing of such Motion. No such action or inaction by any defendant or by Defense Coordinating Counsel shall result in any obligation of increased work by plaintiff's counsel or as the basis for any motion affecting trial dates and Defense Coordinating Counsel shall be sensitive to pending trial dates with regard to the filing of any such motion.

16. All defendants or third-party defendants shall be deemed to have asserted cross-claims for contribution and/or indemnification against all defendants and third-party defendants. No Answer to any cross-claim for contribution and/or indemnification need be filed by any defendant or third-party defendant in any asbestos action and all such cross-claims shall be deemed denied.

17. The parties shall not be required to file transcripts of any deposition in any asbestos action with the Prothonotary. Transcripts shall be made available for copying and reviewing in the office of the party retaining the original at a mutually agreeable time. Copies of transcripts shall be made at a cost no greater than that charged by the Prothonotary.

18. The parties to any asbestos action shall not be required to comply with Superior Court Civil Rules 5(b)(1) and 5(b)(2).

19. Summary Judgment Motions. Any party wishing to file a Motion for Summary Judgment shall comply with the deadlines established by the controlling Trial Schedule Abstract, with Superior Court Civil Rule 107 with regard to font, paper, and margin sizes, and with the rules of procedure and practice established in asbestos litigation actions, including:

- (a) Summary judgment motions shall be captioned as "[*Moving Party's*] Motion for Summary Judgment and Memorandum of Support Thereof" and shall be limited to 10 pages in length. Such motions shall be initially noticed to be heard "at the convenience of the Court" and will be docketed

for hearing pursuant to the applicable Master Trial Scheduling Order deadlines.

- (b) Oppositions shall be captioned as “[*Responding Party’s*] Memorandum in Opposition to [*Moving Party’s*] Motion for Summary Judgment” and shall be limited to 10 pages in length.
- (c) Any Replies shall be limited to 5 pages in length and shall be entitled “[*Moving Party’s*] Reply in Support of Motion for Summary Judgment”
- (d) Appendices to summary judgment motions should be kept to reasonable lengths/sizes.
  - (1) References to transcript testimony shall be clear, concise, and shall include the name of deponent, the date of the deposition, and the pages and lines referred to/relied upon. The cover page to the deposition and the relevant pages cited shall be included in the Appendix. Entire transcripts shall not be appended or submitted unless specifically requested by the Court.
  - (2) Any unreported decision, any statute from any foreign jurisdiction, and transcripts of any oral rulings from this or any foreign jurisdiction relied upon in the submissions shall also be included in the Appendix. Reported decisions need not be included. Westlaw citations are preferred.
  - (3) The Court’s rules on fonts, margins, line spacing etc. will be enforced.

20. Motion Practice. Unless otherwise modified herein or by Order of this Court, or by express leave of Court upon specific request, motion practice shall proceed pursuant to the Rules of Civil Procedure and Civil Case Management Plan, including 4 page limits on motions and responses thereto, and compliance with Superior Court Civil Rule 107.

- (a) All unopposed motions and case dispositive motions *other than* motions for summary judgment under Civil Rule 56, shall be initially noticed for the monthly Omnibus Motion Docket established and maintained by the Court. The Court will consider the Omnibus Motion Docket on the second Thursday of each month (the “Consideration Date”). Any party wishing to place a motion on the Omnibus Motion Docket may do so by filing the motion no later than the last Tuesday of the month preceding the Consideration Date and noticing the motion on for the next Consideration Date. The Court will “So Order” unopposed omnibus motions on the Consideration Date. In the event a party files an opposition to a motion noticed for the Omnibus Motion Docket, such motion shall be removed from the Docket and the original moving party shall, within ten (10) days, re-notice the motion for a date and time set aside by the Court and known

as a "Toxic Tort Motions Date." Any motion not so re-noticed shall be dismissed for failure to prosecute. The prior practice of opposing Omnibus Motions in summary fashion is hereby abolished. Oppositions to Omnibus Motions must comply with the Rules of Civil Procedure, must be complete, and must be filed no later than three (3) business days before the Consideration Date.

- (b) A regular, non-case dispositive civil motion calendar ("Weekly Routine Motion Calendar") shall be established and maintained by the Court and such motions shall be heard by the Special Master, who serves at the pleasure of the Court. No motion that should be noticed for the Omnibus Motion Docket shall be noticed for the Weekly Routine Motion Calendar.
  - (1) Unless otherwise approved by the Court, any party wishing to place a matter on the Weekly Routine Motion Calendar may do so by noticing the matter to be heard on any regularly scheduled motion date. Such notice shall be filed no later than eight (8) days prior to the hearing date.
  - (2) Opposition to any properly noticed Weekly Routine Motion shall be filed no later than three (3) days before the hearing.
  - (3) Coordinating Counsel shall be responsible for developing, maintaining, and publishing an agenda for each Weekly Routine Motion Calendar. All parties will cooperate with the efforts of Coordinating Counsel.
- (c) Noticing Motions. Other than Rule 56 summary judgment motions and post-trial motions, all other motions shall be noticed to be heard on a particular date and time pursuant to this Order.
- (d) All motions shall designate the moving party or parties. Motions filed by Coordinating Counsel shall, unless otherwise expressly and specifically noted, be deemed filed on behalf of all plaintiffs and/or all defendants. It is not necessary for any plaintiff or defendant to file a "Notice of Adoption" or similar filing as a joinder to any motion filed by Coordinating Counsel. However, any party wishing to join in a motion filed by any other party shall file a "Notice of Adoption" or similar pleading.

21. Captions: Cases Not Assigned to Trial Groups - The caption on the top page of any pleading, motion, or other submission shall on the left portion of the caption state on the first line: "In Re: Asbestos Litigation" and below that wording shall state the name of the plaintiff in each case. On the right portion opposite each plaintiff's name shall be set forth the Civil Action Number for that case.

22. Captions: Cases Assigned to Trial Group - The caption on the top page of any pleading, motion or other submission shall on the left portion of the caption state on the first line: "In Re: Asbestos Litigation" and on the second line state the name of trial group or trial date to which that case has been assigned. If the submission affects all cases in the trial group, on the right portion opposite the name of the trial group or trial date shall be placed the Prothonotary's lead case number for the trial group. If the submission does not affect all cases in a trial group, the words "Limited to" shall appear and below that shall be listed the names of the plaintiffs to which the submission applies. The right side of the caption, opposite each plaintiff's name, shall set forth the Prothonotary's civil action number for that plaintiff.

23. The times set forth herein shall not be extended by agreement or stipulation of the parties, unless approved by the Court.

24. Provisions in any specific scheduling order shall control over any inconsistent general provisions in this Order. However, all case management orders are to be read, whenever possible, in harmony so as to achieve the overriding goal of expediting proceedings in all asbestos actions.

25. Any provision herein which modifies previous versions of this Order shall be effective on the date on which this Order is entered. In those instances where the deadline for taking action under these amendments has passed prior to the effective date of these amendments, or will pass within 30 days after the effective date, such action shall be taken within 30 days of the effective date of these amendments.

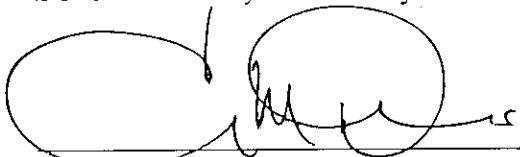
26. Asbestos actions are not exempt from the compulsory alternative dispute resolution ("ADR") provisions of Civil Rule 16. For purposes of the application and administration of Rule 16 and an ADR system in asbestos cases, **David A. White, Esq.** is appointed the Court-Appointed Alternative Dispute Resolution (ADR) Manager in all asbestos actions. The ADR Manager serves at the pleasure of the Court. The Special Master shall serve as secondary Court Appointed ADR Manager in the event a conflict in any given action precludes David A. White, Esq. from so serving.

- (a) The definitions set forth in Rule 16 shall apply in asbestos actions.
- (b) All parties in all asbestos actions shall engage in ADR, the format of which is to be agreed upon by the parties and may include, but shall not be limited to, binding or non-binding arbitration, neutral case assessment, or mediation. If the parties cannot agree on the format of ADR, the default format shall be mediation unless otherwise ordered by the Court-appointed ADR Manager.
- (c) Within the guidelines set forth in General Scheduling Order No. 1, the parties are free to agree on an ADR Practitioner of their choice. In the event the parties are unable to reach an agreement on an ADR Practitioner in any given action by the deadline established to do so, the Court-Appointed ADR Manager shall also serve as the ADR Practitioner.

- (d) Neither the Court-Appointed ADR Manager nor any individual ADR Practitioner may be called as a witness in any aspect of the litigation or in any proceeding related to the litigation unless ordered to do so by the Court or unless required by the terms of this Order. The Court-Appointed ADR Manager and any individual ADR Practitioner shall be immune from any civil liability for, or resulting from, any act or omission done or made while engaged in ADR or in services pursuant to this Order unless made or done in bad faith, with malicious intent, or in a manner exhibiting a willful, wanton disregard of the rights, safety, or property of another. Each ADR Practitioner shall remain bound by any confidentiality
- (e) Upon request, each ADR Practitioner shall submit a written report to the Court-Appointed ADR Manager setting forth the date of the ADR, the format of ADR utilized, the parties who participated and their counsel, and the results reached along with any suggestions or recommendations the ADR Practitioner believes may be helpful to the Court and the Court-Appointed ADR Manager.
- (f) The parties shall pay the ADR Practitioner directly and in accordance with the allocation and amount of fees established by the ADR Practitioner and agreed to by the parties or ordered by the Court. The ADR Practitioner may apply to the Court for sanctions against any party who fails to comply with the terms of engagement established by the ADR Practitioner and agreed to by the parties including, but not limited to, dismissal of the action or default judgment. Any such application shall be made in the first instance to the Court-Appointed ADR Manager who, after independent investigation, shall report to the Court and, if reasonable and necessary, request that the Court sanction the party or parties involved as the Court-Appointed ADR Manager and the Court deem appropriate.
- (g) It shall be the responsibility of all parties to advise each ADR Practitioner of the terms of this paragraph of this Order and, with specificity, of the terms of sub-paragraphs (e) and (f) hereof.
- (h) The Court-Appointed ADR Manager shall be responsible for coordination, oversight, and supervision of all ADR activities in all asbestos actions and shall be available to assist the Court in the orderly resolution of all claims as deemed reasonable, necessary, and appropriate by the Court. All parties will cooperate with and provide any information requested by the Court-Appointed ADR Manager. In addition to generally administering an ADR program for asbestos actions, the Court-Appointed ADR Manager shall have the following specific administrative responsibilities:
  - (1) Receive reports from the parties and from individual ADR Practitioners regarding ADR efforts;

- (2) Work with the parties, counsel, and individual ADR Practitioners to ensure that the provisions of this Order are met and that good faith ADR efforts are undertaken and completed by all parties in all asbestos actions.
  - (3) Work with the Court and the Special Master as necessary to ensure that the Court's intent to apply Rule 16 to asbestos actions is fully met. This will include reports to the Court and recommendations for Court action as the Court-Appointed ADR Manager may deem necessary and appropriate. Upon request, a full and detailed report on ADR status will be provided to the Court following the date to complete ADR as set forth in General Scheduling Order No. 1.
- (i) The terms of sub-paragraphs (e) and (f) shall apply to the Court-Appointed ADR Manager when that individual also serves as ADR Practitioner in any given matter. With regard to administrative or general services provided by the Court Appointed ADR Manager, the Court Appointed ADR Manager shall submit statements to the Court detailing and itemizing such services and shall be compensated for such services at the rate of \$350 per hour. The Court shall authorize payment of such Statements from the Special Master Fund established and maintained by the Court.

*SO ORDERED*, this 10<sup>th</sup> day of October, 2013.



Superior Court Judge

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