

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

IN RE: ALL ASBESTOS LITIGATION	)	
	)	No. 09 L 00000
MASTER FILE	)	Master File - In Re: Asbestos Litigation

MASTER CASE MANAGEMENT ORDER NO. 19

These matters coming before the Court on status hearing for all asbestos personal injury litigation pending in the Circuit Court of Cook County, Law Division, the Court having heard the arguments, comments and suggestions of all counsel representing parties with cases pending before this Court, and the Court otherwise being fully informed in the premises, the Court finds and concludes as follows:

1. There are currently pending in the Circuit Court of Cook County, Law Division, a substantial number of personal injury actions alleging exposure to and injury from asbestos-containing products, all of which are assigned to the Cook County Independent Asbestos Calendar. During the period that the Court has handled asbestos-related litigation, this Court has entered several orders designed to govern the conduct of the cases and parties. The Court now believes a further order is appropriate, consolidating earlier case management orders into a single order.
2. All previous case management orders issued in the In Re: Asbestos Litigation, with the exception of the Third Amended Order Governing Asbestos Deferred Registry, are hereby superseded by this Case Management Order. All asbestos personal injury cases pending before this Court shall be subject to this Order.
3. Discovery in these cases necessarily involves investigation regarding information

about each plaintiff in which all defendants have an interest and to which all defendants are entitled. Discovery by each plaintiff will necessarily involve some inquiry common to all defendants, to which each plaintiff is entitled.

4. Failure on the part of the plaintiffs or the defendants to coordinate or consolidate written discovery regarding such commonly sought information or common inquiries would result in unnecessary and wasteful duplication of effort and expense by all parties and would unduly delay these proceedings.

5. Avoiding the duplication, delay and burden referred to above would facilitate this Court's proper administration of justice and allocation of judicial resources in these cases.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

1. A new Master Case File Number shall be established by the Clerk of the Circuit Court of Cook County. All asbestos litigation Consolidated Case Management Orders and consolidated filings shall be designated by the following:

No. 09 L 00000

Master File — In Re: Asbestos Litigation

The Clerk of the Circuit Court shall place this Order, the Third Amended Order Governing Asbestos Deferred Registry and any subsequent case management orders issued in the In Re: Asbestos Litigation, as well as all responses to Master Discovery Requests and motions concerning "In Re: All Asbestos Litigation" in the Master File.

2. All Asbestos Case Management Orders entered previously, and this order, and all subsequent Case Management Orders, and all documents filed under 95 L 00000, 98 L 00000, 04 L 00000 and 09 L 00000 entered under this caption are hereby incorporated by reference into the new master file.

3. *Complaints.* Every *In Re: Asbestos Litigation* plaintiff shall file a complaint. Upon filing, all further activities in this matter shall be controlled by this order. The complaint shall include sufficient facts to identify the plaintiff's occupation(s) and/or circumstances of the plaintiff's exposure. A plaintiff need not reply to an answer or any affirmative defense raised therein. All affirmative defenses are deemed denied unless admitted.

4. *Counterclaims For Contribution.* In all pending and future *In Re: Asbestos Litigation* cases filed in this court, Counterclaims for contribution against other defendants in a case are deemed filed as of the date of the entry of each defendant's appearance, by each defendant remaining at trial against each other defendant remaining in the case. Each such counterclaim shall be deemed to have been denied by each counter-defendant, without the necessity of separate filings and denials. Fees for counterclaims for contribution shall be deferred until the commencement of trial in an individual case. The assigned trial judge shall require the remaining defendants to identify the counter-defendants subject to counterclaims and to pay the filing fee for a counterclaim prior to the commencement of jury selection in a particular case. A copy of the deemed counterclaim is attached to this Order as Exhibit A.

5. *Master Written Discovery.* Master copies of all written discovery prepared pursuant to this order shall be filed with the Clerk of the Court and will be placed in the master asbestos file as noted in the caption of this order. This includes master interrogatories and requests for production to the plaintiff, master interrogatories and request for production to product defendants, and master interrogatories and requests for production to premises defendants. Copies of each are attached to this Order collectively as Group Exhibit B. If any defendants are new to this litigation in this Court, plaintiffs shall serve them with this Order and may serve master written discovery once for all cases in which that defendant is involved; new defendants shall have no less than 90 days from the date of service of such discovery to respond. Written

discovery requests prepared pursuant to this Order shall be deemed filed in each case on the date the case is filed. Copies of master discovery requests need not thereafter be served on any counsel and all parties shall be deemed to have received notice of a filing of written discovery. A certificate of service for any response to a master discovery request shall be served on all parties to the action in which the response is applicable. Responses to case specific discovery shall be served upon all parties to that case. All parties are under a continuing obligation to supplement their responses in accordance with the Supreme Court Rules.

6. Once a defendant has served on plaintiffs counsel its responses to the plaintiff's master interrogatories and responses to plaintiffs master request for production of documents, that defendant shall be deemed to have served those same responses to the plaintiff's master discovery requests in every subsequent case.

7. The parties are granted leave to file timely supplemental, non-duplicative discovery requests concerning matters particular to a specific case. The parties to whom such discovery is directed shall thereafter have sixty (60) days to respond unless the Court has granted an extension or by agreement of the parties.

8. All cases on the asbestos calendar which have an assigned or established trial date after December 31, 2009 shall follow the standing schedule listed in Paragraph 9 for pretrial activity. The deadlines shall be calculated with reference to trial dates, to be established by order in each individual case in the form attached hereto as Exhibit C. Cases on the asbestos calendar will generally be set for trial in chronological order of filing, in groups of thirteen cases, set on the first Tuesday of each month. Prior CMOs for individual cases set for trial after December 31, 2009 shall be amended to conform to this Master CMO for purposes of discovery due dates only.

Nothing in this order shall require the change of any previously set trial date.

9. *Standing Schedule.* The standing schedule for pretrial activity on the independent asbestos calendar is as follows:

(a) Plaintiff shall provide defendants with answers to the standard master interrogatories in the form approved by this Court not later than 90 days after the complaint is filed, or 270 days before the cause is set for trial, whichever is first. Any plaintiff moving to set a case for trial must demonstrate to the Court: (1) that all defendants have been served and the time for appearance has expired; and (2) that plaintiff's answers to master interrogatories, responses to master requests for production-have been served upon all parties of record. With respect to witnesses expected to testify on issues of product exposure or premises exposure or product identification, answers to interrogatories and disclosures shall specify the defendant(s) against which the witness' testimony will be offered; the product(s) about which the witness will testify; the job site(s) about which the witness will testify; the time frame(s) about which the witness will testify; whether the witness is represented by counsel; and if so, the identity of counsel; and if not represented by counsel, a current and accurate address for the witness. Amendments to plaintiff's Rule 213(f)(1) disclosures shall be made only upon good cause shown and leave of court.

(b) Plaintiffs shall provide defendants with responses to standard master production requests in the form approved by this Court not later than 90 days after the complaint is filed, or 270 days before the cause is set for trial, whichever is first.

(c) Plaintiff shall provide defendants with product identification and exposure witness disclosures no later than 270 days before the cause is set for trial. Product identification and

exposure witness disclosures shall be consistent with the requirements of Supreme Court Rule 213(f)(1) and as specified by this Order.

(d) Plaintiffs shall supply defendants with all records in their possession relating to medical treatment and any claims for lost earnings not later than 90 days after filing the complaint, or 270 days before trial whichever date is earlier. In addition, plaintiff shall provide executed authorizations, including executed HIPAA (45 C.F.R. 164.512 of the Health Insurance Portability and Accountability Act) authorizations, for medical records, union records, Social Security Administration records, death certificate if applicable, military records, not later than 60 days after filing the complaint, or 300 days before trial, whichever date is earlier. (See attached Group Exhibit D, HIPAA Authorization Form.)

(e) Plaintiffs shall appear for discovery depositions not later than 240 days before trial. Plaintiffs' depositions shall proceed in Cook County unless otherwise agreed by the parties or as provided by court order for good cause shown.

(f) Upon the request of any defendant, plaintiffs shall be produced for defense medical evaluations not later than 210 days before trial.

(g) Plaintiffs shall supply defendants with all pathology materials and radiology films of any description in their possession not later than 180 days before trial upon request of a defendant. Upon any transfer of custody of such materials from plaintiff's possession, plaintiff shall send notice to all counsel of record an inventory of material and identity of the counsel for defendant to which it is transferred. No destructive testing of pathology material shall be conducted without leave of court.

(h) All Rule 213(f)(1) product exposure, premises exposure, and lay witnesses on behalf

of plaintiffs (other than family members who will not offer product exposure testimony as hereinafter provided) who are represented by plaintiffs' attorneys shall be produced for their discovery depositions not later than 165 days before trial, by plaintiffs' counsel on notice and payment of the statutory witness fee, but without the necessity of a subpoena from defendants. Defendants shall issue a subpoena for the depositions of lay witnesses not represented by plaintiffs' counsel; all such depositions for completion not later than 165 days before trial; a subpoena from one defendant for the deposition of any such lay witnesses shall be deemed served for all defendants and enforceable by any defendant. The party tendering or subpoenaing any witness for deposition shall make every reasonable effort to arrange for the deposition at a location with telephone access. Any parties wishing to attend telephonically shall be required to insure that necessary equipment (such as a speakerphone) is provided and that arrangements for a conference call are made. The parties who attend by telephone shall bear all telephone costs. Additionally, the parties attending by telephone shall coordinate with the court reporter to insure that, prior to the time the deposition is scheduled to begin: (1) the telephone link has been established; (2) all parties attending by telephone are on the line; and (3) all parties attending by telephone have provided appearance information. Depositions - particularly those of terminally ill plaintiffs - shall not be delayed to accommodate parties attending by telephone who fail to abide by this provision. No deposition shall be considered cancelled unless all notices of the deposition have been withdrawn. A defendant need not attend the deposition of a witness not disclosed in a particular case against that defendant, and the testimony of such a witness shall be inadmissible against that defendant at trial.

(i) Plaintiffs shall disclose the identities of all independent and controlled expert

witnesses, and shall comply with the requirements of Supreme Court Rule 213(f)(2) and (3), not later than 150 days before trial.

(j) The plaintiffs shall produce all prior deposition and trial testimony, including page and line designations, intended for use as substantive evidence not later than 90 days before trial. The defendants shall file objections and/or counter-designate by page and line all other passages in such deposition or trial transcripts which they intend to offer, not later than 14 days before trial. The parties may agree to extend such deadlines until a date closer to trial without the necessity of seeking leave of Court for such extension.

(k) Defendants shall disclose the identities of all Rule 213(f)(1) lay witnesses expected to testify at trial on their behalf not later than 120 days before trial, and shall specify which witnesses are within their control.

(l) Plaintiffs shall produce all Rule 213(f)(3) controlled expert witnesses so disclosed for depositions not later than 105 days before trial if requested by a defendant. Plaintiff's general, non-case-specific opinion witnesses who have been previously deposed or previously testified on their general subject matter and whose opinion applies to generic *In re: Asbestos* issues, and not case-specific issues, shall not be re-deposed without leave of court. Upon the request of a party, plaintiff shall supply the defendant with a transcript of the expert's prior testimony disclosing such generic opinion(s).

(m) Defendants are hereby granted leave of Court to take the deposition of any treating physician disclosed in these cases not later than 90 days before trial.

(n) Upon the request of a plaintiff, those lay witnesses disclosed by a defendant which are within its control shall be produced for deposition not less than 90 days before trial.



Plaintiffs shall serve a subpoena for the depositions of other lay witnesses, scheduling all such depositions for completion not later than 90 days before trial. Defendants' corporate representative witnesses who have previously been deposed or previously testified on the issue of a defendant's knowledge and whose testimony applies to general *In re: Asbestos* issues and not case-specific issues, shall not be re-deposed without leave of court. Upon the request of a party, defendant shall supply a transcript of the corporate witness's prior testimony.

(o) The defendants shall produce all prior deposition and trial testimony, including page and line designations, intended for use as substantive evidence not later than 45 days before trial. The plaintiffs and/or co-defendants shall file objections and/or counter-designate by page and line all other passages in such deposition or trial transcripts which they intend to offer, not later than 14 days before trial. The parties may agree to extend such deadlines until a date closer to trial without the necessity of seeking leave of Court for such extensions.

(p) Defendants shall disclose the identities and expected testimony of all independent and controlled expert witnesses consistent with Supreme Court Rule 213(f)(2) and (3) not later than 90 days before trial.

(q) All independent and controlled expert witnesses so disclosed on behalf of defendants shall be produced for depositions not later than 60 days before trial, if requested by a plaintiff.

(r) *Pleading of Punitive Damages.* Plaintiffs shall file all motions pursuant to §2-604.1 not later than 60 days before trial. Defendants may file their response to any motions pursuant to §2-604.1 not later than 30 days before trial.

(s) All motions for summary judgment shall be filed not later than 60 days before trial. Responses to motions for summary judgment shall be filed not later than 14 days after filing of

**motion for summary judgment. All reply memoranda in support of summary judgment motions shall be filed not later than 7 days after filing of any response.**

**(t) Upon the request of any defendant made not later than 60 days before trial, all family members of plaintiffs expected to testify at trial and not offering product exposure testimony shall be produced for depositions not later than 14 days before trial.**

**(u) Plaintiff shall provide notice to all parties of the trial date and any change in the trial date. Plaintiff's counsel shall serve defendants with plaintiffs' intended order of trial of the cases in each trial-set group no later than 10 days prior to trial.**

**10. No communication or action made or taken by any party pursuant to this Order shall be construed or otherwise held admissible as evidence of conspiracy or bad faith. There exists in these cases a joint defense privilege. No communication by counsel for one defendant to counsel for another defendant of matter protected by the attorney-client privilege shall constitute a waiver of such privilege. Nor shall the filing or deemed filing of any claim by any defendant against any other defendant constitute a waiver of such a privilege. There exists in these cases a joint attorney work product doctrine. The attorney work product doctrine shall apply to communications between, or records or reports created by counsel for the defendants pursuant to this order. The protections provided by the attorney work product doctrine shall not be waived or otherwise forfeited by virtue of joint participation in the creation of the protected material, disclosure of the protected material to other defendants, or the filing or deemed filing of any claim by any defendant against any other defendant. Under no circumstances shall the cooperative discussions between and or among the defendants or the work product created by counsel for the defendants pursuant to this Order be communicated to any person or persons**

other than the officers, directors, and employees of the defendants, their counsel, their expert witnesses or consultants, or their insurance carriers.

11. Any evidence or testimony not timely disclosed or produced pursuant to this Order shall be inadmissible for any purpose at trial, except by stipulation of the parties or by further order of the Court. Motions to extend deadlines set forth in this order shall be filed prior to the expiration of the deadline and for good cause shown, unless otherwise agreed by the parties.

Date:

, 2022

ENTER:

JUDGE

