

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY
P E N N S Y L V A N I A
CIVIL ACTION - LAW

In Re: :
ALL ASBESTOS AND : No. 42 of 1988
ASBESTOS RELATED CASES :

THIRD AMENDED STANDING ORDER

Per Curiam

August 25 , 1989

NOW, this 25th day of August, 1989, in all cases theretofore and hereafter filed in this Court for the recovery of damages for asbestos and asbestos related injury or death, the Court hereby enters a Third Amended Standing Order which shall govern the disposition of such actions.

SERVICE

1. In all cases filed on or after the date of this Order, the Prothonotary shall attach one copy of this order (without Appendices) to the Complaint as filed, and the plaintiffs

shall thereafter serve one copy of this Order (without Appendices), along with the Complaint, upon each of the defendants; and,

2. When any party subsequently joins another party, said party shall serve a copy of this Order (without Appendices) along with the original pleading served in conjunction with said joinder.

PLEADINGS

3. All defendants and additional defendants shall be deemed to have filed claims for contribution and common law indemnity against each other and all such claims and averments shall be deemed to be denied.

4. Any party that asserts a crossclaim for contractual indemnity shall file a separate "Indemnity Crossclaim", which must be so entitled and pleaded expressly, must further name each particular defendant or additional defendant against which such indemnity is sought, and must otherwise be stated with the specificity required by the Pennsylvania Rules of Civil Procedure.

5. Defendants or additional defendants against which such indemnity is sought may plead thereto, or they may refrain from pleading thereto, in which case said "Indemnity Crossclaim" and the facts recited in support thereof shall be deemed to be denied.

6. In addition to the types of indemnity and contribution claims deemed to be automatically made and denied herein, such automatic denials shall also be deemed to include any affirmative defense raised in any particular party's Answer, New Matter or Counterclaim filed of record.

7. Any defendant or additional defendant who does not wish to be bound by or to enjoy the benefits of Paragraphs 3 through 6 of this Order may file and serve a declaration of record rejecting the applicability of the aforesaid paragraphs.

8. At any time where any defendant or additional defendant has settled with the plaintiff(s) and obtained a Release, said defendant or additional defendant, without further order of Court, is hereby granted leave to file an Answer or Amended Answer limited to the averments of the existence of such settlement and Release. Any and all averments of any pleading

making a claim against such settled defendant or additional defendant by any other party, including claims for contribution and/or indemnity, shall be deemed to have been denied by the settled defendant or additional defendant without the necessity of pleading thereto and proof of all such averments shall be required. Such settled defendant or additional defendant shall be permitted at trial to prove the defenses of statute of limitations, contributory negligence, assumption of the risk and any and all other affirmative defenses without the necessity of pleading the same in its Answer. Where any such settled defendant or additional defendant files an Answer pleading the existence of such settlement and Release, all averments of fact contained in said Answer pertaining to the existence of such settlement and execution of such Release shall be deemed to be admitted by all other parties unless any such party files a pleading denying the same within sixty (60) days after service thereof.

9. When any defendant or additional defendant files a pleading or amended pleading asserting that a joint-tortfeasor or other Release has been executed, all other defendants and additional defendants shall be entitled to claim the benefit thereof pursuant to any applicable law or statute, without the necessity of filing a pleading to that effect.

10. Amendments to pleadings may be filed at any time without prior leave of Court, provided the amendments will not delay the trial of the case. Any other party affected by such amended pleading may move to strike the amendment, in whole or in part, within sixty (60) days of service of the amendment upon such party. Failure to move to strike within the aforesaid sixty (60) days will be deemed to be an acquiescence to the amendment.

11. An additional defendant may be joined at any time without prior leave of Court, but the joined party shall not be precluded from raising any question of untimely joinder. The joinder will be stricken if filed after the case has been listed for trial. Upon request of the joined party, it shall be the responsibility of the joining party to provide the joined party with copies of all prior discovery materials pertaining to plaintiff's liability and damage claims in the possession of the joining party, including medical reports and employment records.

12. For actions commenced on or after the date of this Order, all allegations of the Complaint or Complaint to Join shall automatically be deemed to be denied, with the filing of an entry of appearance. A defendant or additional defendant desiring to plead affirmative defenses and other material facts under New

Matter (Pa. R.C.P. No. 1030) or to assert a Counterclaim (Pa. R.C.P. No. 1031) may do so in an Answer which shall be filed in the Master File established by the Prothonotary. Once such an Answer has been filed of record in the Master File, that party's Answer, as may be amended from time-to-time, shall be deemed as filed in every case thereafter in which that party has been sued, without prejudice to that party to raise any matter by Preliminary Objections. All averments in an Answer of a party filed in the Master file shall be deemed to be denied, and no Reply shall be required. Notice of the filing of an Answer or any amendment thereto in the Master File shall be given to all counsel of record, and a copy thereof shall be furnished to any other party upon written request.

13. When any defendant or additional defendant files Preliminary Objections, a Petition or a Motion, the granting of which would in the normal course inure to the benefit of other defendants or additional defendants, the Preliminary Objections, Petition or Motion will be treated as having been made for the benefit of all defendants and additional defendants.

14. Any defendant or additional defendant who does not wish to be treated as having joined in Preliminary Objections, or

in any Petition or Motion as described in Paragraph 13, above, may file of record an appropriate instrument disclaiming any joinder in the relief being sought.

PRETRIAL PROCEDURES

15. For all actions filed on or after the date of this Order the following procedures shall apply:

- (A) Within ninety (90) days after service of the Complaint or Complaint To Join the defendant or additional defendant shall file an entry of appearance and serve a copy on all parties or their counsel.
- (B) Within one hundred twenty (120) days after the action is commenced plaintiff(s) shall serve upon each defendant, including any additional defendant joined and then of record, answers to the standard short form interrogatories adopted for these cases and attached as Appendix "A" hereto.
- (C) Within one hundred twenty (120) days after the action is commenced, plaintiff(s) shall provide to counsel for the first-named defendant in the action signed and notarized authorizations as set forth in Appendix "B" hereto.

16. For all pending actions and those hereafter filed, the Court at an appropriate time shall schedule a status conference to consider the status and readiness of each case for trial. Local Rule L215B et seq. (Certificate of Readiness) shall be inapplicable to asbestos and asbestos-related actions filed in this

Court. Insofar as practicable, it is the intent of this Court to schedule cases for trial in the order in which filed. The judge presiding at such conference shall by Order establish a projected trial date and pretrial timetable:

<u>Action</u>	<u>Schedule/Date</u>
Plaintiff(s) To Furnish New/Updated Authorizations for Medical Records/ X-Rays/Pathology, and provide all X-Rays, tissue samples, slides, etc. in possession of Plaintiffs' counsel.	
Plaintiff(s) to Furnish Names and Addresses of Product Identification Trial Witnesses	
Defense Medical Examinations/Pathology Review to be Completed	
Discovery Deadline	
Plaintiff(s) Pretrial Statement	
Defendant and Additional Defendant Pre-trial Statements	
Motions in Limine/Voir Dire/Jury Instructions	
Responses to Motions in Limine	
Counsel Settlement Conference	

Pretrial Conference

Trial Date

A Pretrial Statement of any party must be served upon all other parties remaining in the case.

Pretrial statements shall conform to the requirements of Appendix "C" to this Order.

It shall be the duty of Plaintiffs' counsel to initiate the Settlement Conference of Counsel and to explore at such conference the prospects of settlement. Counsel for Plaintiff(s) shall report to the Court at the pretrial conference the results of efforts to arrive at a settlement.

At the status conference the number of product identification witnesses to be presented at trial will be determined and limited.

SUMMARY JUDGMENT

17. For all actions commenced prior to January 1, 1988, motions for summary judgment must be filed on or before January 5, 1990. In all other actions, motions for summary judgment may be filed at any time, but must be filed, absent unusual circumstances, within nine (9) months of the date the Plaintiff is deposed; provided, however, where a Plaintiff in an action commenced on or after January 1, 1988 has been deposed prior to the date of this Order, a motion for summary judgment, in all events,

will be timely if filed within one hundred twenty (120) days of the entry of this Order. A party seeking or opposing summary judgment must file a brief unless excused by the Court. Defendants and additional defendants filing a motion for summary judgment shall serve a copy of the motion and an accompanying brief upon counsel for plaintiffs, notify all other parties of the filing and provide copies of the motion and any brief to any other party upon written request.

Within one hundred twenty (120) days of the filing of a motion for summary judgment, any party opposing the motion shall file a response and brief. The response shall be specific and detailed; it shall contain specific references to the parts of the record relied upon with copies attached if possible. Any party which fails to file a timely response and/or brief in opposition will be deemed to have consented to the entry of summary judgment. Judgment will be entered by the Court on presentation of a motion for judgment. If a party objects to the motion on the ground that discovery is not complete, that party shall file a notice of objection within thirty (30) days and that party will have sixty (60) days from the filing of the notice of objection to complete discovery and sixty (60) days thereafter to file a response.

As soon as all applicable time periods hereunder have expired, any party may file a praecipe for argument which will cause all pending motions for summary judgment in the case to

be listed by the Court Administrator on the next available argument calendar. A motion for summary judgment will be scheduled for oral argument if oral argument is requested in a written motion filed by an interested party. If no such request is made, the motion for summary judgment will be scheduled for oral argument or will be disposed of on the summary judgment record, at the discretion of the assigned judge. Any reply briefs and other supplemental evidentiary materials filed by the moving party must be filed of record no later than five (5) days before the argument or disposition date.

Upon receipt of the Order granting or denying summary judgment, counsel for the party which filed the motion shall mail a copy of the Order to all counsel of record, and shall thereafter file an appropriate affidavit of service.

GENERAL DOCKETING OF CASES AND FILING OF PAPERS

18. A. The Prothonotary's Office has established a "Master File" at the above No. and Term for the filing and docketing of court papers and correspondence that relate to this litigation. The caption and docket of such file is designated "Asbestos and Asbestos Related Cases."

B. In addition to the Master File described above, the Prothonotary's Office shall maintain individual docket entries and separate file folders for each action filed which shall contain the court papers and other correspondence which solely relate to that claim.

C. If a particular court paper or filing pertains to all asbestos cases, counsel shall file only the original which shall be filed at and docketed only to the Master File. The court paper or filing shall be captioned only as to the Master File. No individual case name or docket number shall be shown in the caption.

D. If a court paper or filing pertains to ten or more asbestos cases, but less than all cases, a single original copy shall be submitted for filing and docketing in the Master File. It shall bear the Master file caption and docket number, as well as the case names and specific docket numbers to which the court paper or filing pertains. Individual entries of the filing of the court paper shall be made in the separate case dockets, referencing the filing in the Master File, but individual copies of the court paper or filing shall not be sent to the Prothonotary's Office for filing in individual case folders.

E. In all other instances, counsel shall provide the Prothonotary with sufficient copies of each court paper or filing for placement by the Prothonotary in the individual case folders.

F. If a court paper such as a motion, brief, or Order of Court relates to multiple cases or is expected to have importance to future cases, counsel may file a copy of such paper in the Master File.

G. Counsel for all parties may freely incorporate by reference any court paper or other filing on file in the Master File without the need for attaching such document to a court paper filed in an individual case file. Papers on file in the Master File which have been referenced in a motion or other legal paper shall be deemed to be a part of the record for purposes of appeal. Any matter to be presented to the court shall have attached thereto pertinent documents from the Master File.

MISCELLANEOUS

19. The responses of a defendant or additional defendant to Interrogatories served in any Beaver County case may be used for any purpose permitted by law in all cases filed in Beaver County. A party need not respond more than once to the same

Interrogatories. Responses to Interrogatories shall be served upon the party propounding the Interrogatories and a copy thereof shall be filed of record in the Master File. Notice of the filing of Responses to the Interrogatories in the Master File shall be given to all counsel of record and a copy of the Responses shall be furnished to any other party upon written request.

APPLICATION

20. Unless otherwise indicated, all requirements of this Order are to apply to all cases now pending or filed in the future.

21. All prior Standing Orders, Amendments and Additions to Standing Orders are hereby Revoked.

BY THE COURT

Robert C. Reed

P.J.

Joseph J. Dello

J.

Thomas C. Manning

J.

Robert E. Kinselman

J.

Wito Astey

J.

BY THE COURT

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ROBERT C. REED
PRESIDENT