

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: LATEX GLOVES PRODUCTS : MDL DOCKET NO. 1148
LIABILITY LITIGATION : :
 : ALL CASES

PROPOSED CASE MANAGEMENT ORDER NO. 44
RE: VOLUNTARY WAIVER OF SERVICE ON NON-U.S. DEFENDANTS

AND NOW, on this 14th day of January, 1999, upon conference and agreement of the parties, the following is ORDERED:

This Case Management Order is intended to create a procedure by which formal service of process on Non-U.S. Defendants can be voluntarily waived.

1. Non-U.S. Defendants which are established as proper parties to this litigation may voluntarily waive formal service of process in cases which are or become a part of these MDL proceedings after the Non-U.S. Defendant has been properly served and has appeared in at least one pending action which is a part of these MDL proceedings.

2. Each such Non-U.S. Defendant which elects to voluntarily waive formal service of process shall file and serve a Written Statement of Waiver of Service in the form attached hereto as Exhibit A, setting forth:

(a) the complete name of the Non-U.S. Defendant; and

(b) the name and mailing address of the individual representative in the United States appointed to receive service of process in cases which are or become a part of the MDL proceedings on behalf of the Non-U.S. Defendant (“Appointed Representative”).

The Written Statement of Waiver of Service shall be signed by counsel for the Non-U.S. Defendant, filed with the Court, and served on MDL Plaintiffs’ Lead and Liaison Counsel.

3. Plaintiffs' Lead Counsel or his designee shall prepare and maintain a current list of Appointed Representatives of Non-U.S. Defendants which have voluntarily waived service for use by all counsel in these MDL proceedings. Such list shall be updated and distributed on a periodic basis, but not less frequently than quarterly.

4. Within 14 days of receipt of a Complaint and Waiver of Service Form, the Appointed Representative of a Non-U.S. Defendant which has voluntarily waived formal service shall return to Plaintiff's counsel an executed copy of the waiver form.

5. Any Non-U.S. Defendant that waives service of process in any action which is or becomes part of these MDL proceedings pursuant to this Case Management Order shall be deemed to concede only the fact that the defendant has received a copy of the Complaint and is not insisting that a formal summons be issued or served. The Non-U.S. Defendant shall not be deemed to waive any other rights, including, but not limited to, the right to object to venue or jurisdiction, or any rights afforded to foreign defendants under any applicable treaties or conventions, nor shall the Non-U.S. Defendant be barred from pursuing any such rights by the filing of formal motions.

6. The procedures set forth in this Case Management Order shall not modify the time periods to answer or otherwise plead to the Complaint. (*See* CMO 14).

7. To the extent that agreement is reached between a Non-U.S. Defendant and MDL plaintiffs' counsel pursuant to this Case Management Order, such agreement shall be binding upon that Non-U.S. Defendant with respect to all future service of initial process in these MDL proceedings.

BY THE COURT:

Edmund V. Ludwig, Judge

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WRITTEN STATEMENT OF WAIVER OF SERVICE

1. In accordance with, and subject to all of the terms and provisions of Case Management Order No. 44, the following Non-U.S. Defendant hereby voluntarily waives formal service of process: _____ .

2. The complete name of the waiving Non-U.S. Defendant is: _____

3. The name and mailing address of the individual representative in the United States appointed to receive service of process on behalf of the above-named defendant in cases which are or become a part of the above-captioned multi-district litigation proceedings is:

4. This Written Statement of Waiver of Service shall be filed with the Court.

Respectfully submitted,

[Counsel for the Waiving
Non-U.S. Defendant]

cc: MDL Plaintiffs' Lead Counsel
MDL Plaintiffs' Liaison Counsel