

TEN STEPS TO RESOLUTION OF MDL-875

Updated October 2, 2012

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EXHIBIT "A"

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

IN RE: ASBESTOS PRODUCTS : MULTIDISTRICT LITIGATION
LIABILITY LITIGATION : NO. MDL 875

ADMINISTRATIVE ORDER NO. 11, AS AMENDED EFFECTIVE MARCH 16, 2009

Whereas Asbestos Products Liability Litigation (MDL 875) has been an active, ongoing multidistrict action since July 29, 1991, and

Whereas the undersigned transferee judge has analyzed the existing Court case management procedures as they relate to MDL 875, and is of the view that adjustments of these procedures need to be made to allow a more efficient discharge of the transferee court's responsibilities, it is hereby

ORDERED that the following modifications to the existing procedures for the processing of cases, dockets, pleadings and orders in MDL 875 cases are adopted:

1. Calendar Management.

Effective immediately, and except as otherwise set forth herein, the management of the case files and dockets for all pending MDL 875 cases (and, the files and dockets for all future MDL 875 cases filed after the entry of this Administrative Order) shall be transferred to the Transferee Court in accordance with both the schedule compiled by the Clerk of the Transferee Court and the following terms:

A. **Actions to be taken by the Clerks of the Transferor Courts.**

- I. The Clerks of the Transferor Courts shall retain all case files for those actions in which all claims have been completely resolved between all parties, including bankrupt defendants, whether by dismissal, stipulation or attrition. Unless otherwise directed, case files and dockets of cases previously remanded to the Transferor Courts by the Judicial Panel on Multidistrict Litigation shall also be retained by the Transferor Court. In addition, the Clerks of the Transferor Courts shall retain all case files and dockets for those actions transferred to a state court or a federal district court registry which has been previously specifically established for the placement and tracking of asbestos personal injury cases which do not currently meet specified criteria for advancement to trial.
- II. The remaining cases having unresolved claims against bankrupt defendants and non-bankrupt defendants shall be transferred to the Transferee Court in the following manner:
 - a. In the interests of administrative efficiency and uniformity,

upon the entry of an Order of Transfer by the undersigned

judge, a list of all cases to be transferred shall be sent by the Clerk of the Transferee Court to the Clerk of the Transferor Court. The Clerk of the Transferee Court shall retrieve a copy of each docket sheet from the CM/ECF system from the Clerk of the Transferor Court for the transferred cases, and shall initiate a new file in the Transferee Court. The Clerk of the Transferor Court shall mark the Transferor Court's file "CLOSED."

- b. In the event the Transferor Court does not maintain its MDL 875 cases under the CM/ECF system, a paper copy of each docket sheet for the cases to be transferred shall be forwarded to the Clerk of the Transferee Court.
 - c. New pleadings, documents and other papers received for filing after the case has been transferred shall be forwarded to the Clerk of the Transferee Court, and the Clerk of the Transferor Court shall notify all counsel concerned, as well as all pro se parties, that all future pleadings are to be filed with the Clerk of the Transferee Court, in accordance with the conditions set forth in Section 1.B.II of this Administrative Order, by giving notice of this Order to counsel and to any pro se party.
- III. Documents in any asbestos personal injury lawsuit involving MDL 875 filed in any one Transferor Court shall not be filed in the Transferee Court until a Transfer Order has been entered in the Transferee Court that states that documents in that specific Transferor Court shall be filed in the Transferee Court.
 - IV. Any document in any asbestos personal injury lawsuit involving MDL 875, over which the Transferor Court, and not the Transferee Court, has jurisdiction and venue, shall not be filed in the Transferee Court until a Transfer Order has been entered in the Transferee Court that states that documents in that specific Transferor Court shall be filed in the Transferee Court.

B. Actions to be taken by the Clerk of the Transferee Court.

- I. The Clerk of the Transferee Court shall maintain dockets and create case files in all actions transferred from the Transferor Courts as soon as they are received.
- II. All documents submitted to the Clerk of the Transferee Court shall be treated in all respects in accordance with the Transferee Court's

Local Rules of Civil Procedure 5.1.2; and 5.1.3.

- III. The Clerk of the Transferee Court shall compile a schedule of all MDL 875 cases in order to allow for the more efficient transfer of MDL 875 cases from the Transferor Court to the Transferee Court.
- IV. The Clerk of the Transferee Court shall submit to the undersigned transferee judge a quarterly pending caseload status report specific to the Transferee Court and each Transferor District Court.

2. **Motions.**

All Motions pending in MDL 875 which are neither granted nor denied as of the date of transfer of a case from the Clerk of the Transferor Court to the Clerk of the Transferee Court shall be deemed denied *without prejudice* and with all time requirements held in abeyance from the initial date of filing. Counsel may refile any unresolved motions for further transferee court action. Motions brought in accordance with the procedures contained in Administrative Order #3 shall be preceded by a telephone conference with the Court. Disputing counsel shall attempt to resolve issues between the parties without Court assistance, and failing resolution, through a telephone conference with the Court prior to the filing of any disputed motion.

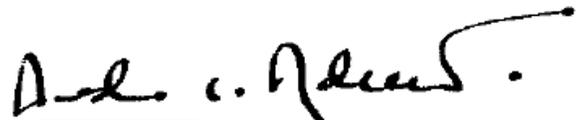
3. **Exclusions.**

The dockets and files for cases filed in the United States District Court for the Northern District of Ohio under the designation "MARDOC-MDL875(2)" shall not be transferred at this time under the terms of this order.

4. **Conflicts.**

To the extent that any conflicts exist, this Administrative Order shall take precedence over and supercede all previous administrative orders in this Multidistrict Litigation consolidation.

BY THE COURT:



EDUARDO C. ROBRENO, J.

Date: March 16, 2009

EXHIBIT "B"

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

IN RE: ASBESTOS PRODUCTS:CONSOLIDATED UNDER
LIABILITY LITIGATION (NO. VI) :MDL DOCKET NO. 875

:

KEYBOARD () : CIVIL ACTION
v. :
: :
KEYBOARD () : NO. : KEYBOARD ()
: (U.S.D.C. KEYBOARD ())
:

ALL PLAINTIFFS : CIVIL ACTION
v. :
: :
ALL DEFENDANTS : NO. :
: (U.S.D.C. Pennsylvania
: Eastern)

ORDER

AND NOW, this day of , 2010, it is
hereby ORDERED¹ as follows:

1

A civil action was filed in the TRANSFEROR DISTRICT COURT and properly docketed by that court as TRANSFEROR COURT CIVIL ACTION NO.; this civil action has been transferred to this court as part of the federal systemwide asbestos products liability litigation, known commonly as MDL 875.

This one civil action has been brought by # OF PLAINTIFFS IN ORIGINAL individual plaintiffs. We note that claims of different plaintiffs which involve common legal issues, but totally different

1. Within sixty (60) days, each individual plaintiff shall file one "Severed and Amended Complaint" in this Court. The Clerk of this Court is directed to assign civil action numbers to each individual plaintiff. Failure to comply with this section of the instant order may result, upon motion by any concerned defendant or by rule to show cause issued by the Court, in the dismissal of that specific plaintiff's civil action with prejudice, pursuant to Fed. R. Civ. P. 41(b).

2. Each Severed and Amended Complaint shall contain the specific claims asserted by that

alleged facts, may not be grouped into single action pursuant to the plain and unambiguous language of Fed. R. Civ. P. 20(a)(1). In the instant matter, while it is true that the claims do not arise out of the same transaction, occurrence or series of transactions or occurrences, and are not therefore related within the meaning of Fed. R. Civ. P. 20(a)(1). Pursuant to Fed. R. Civ. P. 21, federal courts may sever misjoined plaintiffs sua sponte when their claims do not arise out of the same transaction, occurrence or series of transactions or occurrences. In addition, courts may sever parties for the "efficient administration of justice." An action severed under Fed. R. Civ. P. 21 becomes an independent civil action. Moreover, the just, speedy and efficient processing of this matter in this court will require separate trials for each of these plaintiffs, as their lawsuits may involve different facts, different witnesses, different evidence, different legal theories and different defenses, which could lead to confusion of the jury if they were all tried together. In addition, it is obvious that permitting such multi-plaintiff actions with unrelated claims to proceed without severance would complicate discovery and interfere with its completion in accordance with assigned deadlines. Severance of this matter will require each of the plaintiffs to file a Severed and Amended Complaint that provides the necessary information about his or her individual claims. Likewise, a filing fee pursuant to 28 U.S.C. §1914(a) must be assessed for each of these individual plaintiffs (except for the lead plaintiff NAME), who has already satisfied the fee requirement in the TRANSFEROR DISTRICT COURT.

individual plaintiff against any defendant named in the Severed and Amended Complaint. Failure to comply with this section of the instant Order may result, upon motion by any concerned defendant or by a rule to show cause issued by the Court, in the dismissal of that specific plaintiff's civil action with prejudice, pursuant to Fed. R. Civ. P. 41(b).

3. Each Severed and Amended Complaint shall be submitted to the Clerk of the Court on disk in portable document format (.pdf), along with a courtesy paper copy of the complaint, for filing. Pursuant to Local Rule of Civil Procedure 5.1.2., all attorneys shall apply for a signature code by completing and filing with the Clerk of the Court a Validation of Signature Form, a copy of which is attached hereto. An attorney's signature code shall be entered on the signature line of the courtesy copy of the Severed and Amended Complaint for the purpose of signature validation pursuant to Fed. R. Civ. P. 11.

4. Absent prior leave of court, a Severed and Amended Complaint shall contain only those claims pleaded in the original multi-plaintiff action or some subset of those claims. Failure to comply with this section of this Order may result, upon motion by any concerned defendant or by a rule to show cause issued by the Court, in the dismissal of the affected claims with prejudice.

5. Absent prior leave of court, a Severed and Amended

Complaint shall not name any new defendants not named in the original multi-plaintiff action. Claims against any such "new defendants" may result, upon motion by any such "new defendant," in the dismissal of the affected claims with prejudice.

6. Claims against any defendant who is named in the original action, but who is not named as defendant by the specific plaintiff in any one specific Severed and Amended Complaint may result in the dismissal, sua sponte, of that specific plaintiff's civil action with prejudice.

7. Except for PLAINTIFF (the lead plaintiff in the aforesaid matter) originally filed in the TRANSFEROR DISTRICT COURT, each plaintiff who files a Severed and Amended Complaint shall remit to the Clerk of Court a filing fee in the amount of \$350.00 pursuant to 28 U.S.C. §1914(a). A specific plaintiff's failure to comply with this section of the instant Order may result in the dismissal, sua sponte, of the specific plaintiff's civil action with prejudice.

8. Each Severed and Amended Complaint must be served by the concerned plaintiff as required by Fed. R. Civ. P. 5.

AND IT IS SO ORDERED.

Date: _____


EDUARDO C. ROBRENO, J.

EXHIBIT "C"

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS :
LIABILITY LITIGATION (NO. VI) : CIVIL ACTION NO.: MDL 875

This Document Relates to:
ALL ACTIONS

**AMENDED ADMINISTRATIVE ORDER NO.12
(AS AMENDED EFFECTIVE AUGUST 27, 2009)**

THE COURT, after examination of current procedures in place in this matter, and with a desire to facilitate the expeditious movement of pending cases on the MDL docket, and having had the benefit of input from the court-appointed plaintiff and defendant steering committees, hereby imposes the following filing requirements and procedures:

1. SUBMISSION OF IDENTIFICATION INFORMATION

All plaintiffs shall submit to the Court a report identifying each plaintiff by full name, date of birth, last four digits of plaintiffs SSN, and a statement indicating the status of the plaintiff in the case before the Court; ie., asbestos-related injury victim, spouse of injured party, administrator of injured party or deceased injured party, executor(trix), child of injured party, etc.

2. SUBMISSION OF RELATED COURT ACTIONS

Each plaintiff shall identify each and every prior or pending court or administrative action brought with the intent of satisfying in whole or in part, the damages sustained by the plaintiffs alleged asbestos-related personal injury. In each such instance, the plaintiff shall identify the claim, the parties involved, and the results of any action thereon.

3. SUBMISSION OF STATEMENT OF CASE STATUS

The plaintiff in each case shall identify all of the named defendants in the following manner:

- a) Each defendant with whom the plaintiff has achieved resolution of his/her claim, whether by settlement or agreement to dismiss without payment or by payment of a claim through the bankruptcy court, shall be identified and, where a dismissal has not yet been entered of record, a proposed order shall be submitted;

- b) Each defendant that the plaintiff now desires to dismiss from the action, with or without prejudice, the reason for the dismissal, and a proposed order;
- c) Each remaining defendant that is currently in bankruptcy with a claim pending, together with an order for the transfer of the claim to an active docket which the court has created for the holding of such claims; and
- d) Each non-bankrupt unsettled defendant.

4. SUBMISSION OF MEDICAL REPORTS

Each plaintiff asserting a claim based upon an alleged asbestos-related malignancy shall submit to the court a copy of the medical diagnosing report or opinion upon which the plaintiff now relies for the prosecution of the claims as if to withstand a dispositive motion.

Each plaintiff asserting a claim based upon an alleged non-malignant injury or condition shall submit to the court a copy of the medical diagnosing report or opinion upon which the plaintiff now relies for the prosecution of the claim as if to withstand a dispositive motion.

Each report or opinion submitted hereunder shall be based upon objective and subjective data which shall be identified and descriptively set out within the report or opinion.

5. ALTERNATIVE PLAINTIFF SUBMISSION

Alternative submissions to the court are acceptable under the following circumstances:

- a) If the plaintiff has remaining claims only against bankrupt parties and is desirous of seeking payment on those claims through the bankruptcy action, then, as an alternative to the required submissions under sections 2. and 4. above, the plaintiff may submit a proposed order for the transfer of this case to the "Bankrupts Only" docket in the form attached.
- b) If the plaintiff has viable claims remaining against both bankrupt and non-bankrupt parties and wishes to pursue through the bankruptcy action only those claims remaining against the bankrupt parties, then, as an alternative to the required submissions under sections 2. and 4. above, the plaintiff may submit a proposed order for the dismissal of the non-bankrupt parties with prejudice and the transfer of the remaining claims against the bankrupt parties to the "Bankrupts Only" docket in the form attached.
- c) The plaintiff may at any time submit to the court a proposed order to dismiss his/her case against all parties with prejudice. Plaintiff may also request a dismissal against any or all parties without prejudice; however, notice must be given to all parties, any of whom may file an objection within thirty (30) days

thereafter. The court will hold a hearing if deemed necessary.

6. TIMING REQUIREMENTS

Plaintiffs shall submit required documentation and proposed orders to the court in accordance with the schedule set forth:

- a) Plaintiffs whose cases were filed during the years 2007, 2006, and before July 29, 1991 shall file with the court their required papers on or before August 1, 2007.
- b) Plaintiffs whose cases were filed between July 29, 1991 and December 31, 1995 shall file with the court their required papers on or before September 1, 2007.
- c) Plaintiffs whose cases were filed in 1996, 1997 and 1998, shall file with the court their required papers on or before October 1, 2007.
- d) Plaintiffs whose cases were filed in 1999, 2000, 2001 and 2002, shall file with the court their required papers on or before November 1, 2007.
 - e) Plaintiffs whose cases were filed in 2003, 2004, and 2005, shall file with the court their required papers on or before December 1, 2007.

The court may dismiss pursuant to F.R.C.P. 41(b) the cases of any plaintiffs who fail to comply with the requirements set forth.

7. SCREENED CASES

Current litigation efforts in this court and in the silica litigation have revealed that many mass screenings lack reliability and accountability and have been conducted in a manner which failed to adhere to certain necessary medical standards and regulations. The result is that mass screenings create an inherent suspicion as to their reliability. Where screenings have been conducted by the Sheet Metal Occupational Health Institute Trust and other organizations utilizing standards and protocols established by the American Thoracic Society (ATS), the Association of Occupational and Environmental Clinics (AOEC), and other accredited health organizations, there is a larger probability of adequacy for the reliability foundation necessary for admissibility. This court will therefore entertain motions and conduct such hearings as may be necessary to resolve questions of evidentiary sufficiency in non-malignant cases supported only by the results of mass screenings which allegedly fail to comport with acceptable screening standards.

8. **EXCLUSIONS**

The case designated as ZMDL 875 (MARDOC) shall be excluded from the requirements set forth and those actions shall continue to be governed by the requirements of previous orders of this court concerning the management of the MARDOC cases.

9. **SETTLEMENT CONFERENCES / SUGGESTIONS OF REMAND**

The court intends upon stepping up the pace of settlement conferences and will accordingly, issue orders to that effect. Counsel are expected to comply with all requirements of the notice and be prepared at the conference. All parties shall submit to the court at the time of the first settlement conference in any case, a short position paper stating their position relative to disease, exposure and damages. Mitigating factors for the purposes of settlement shall also be set forth.

If the parties have failed to achieve settlement following one or more settlement conferences and working with the court, the case may be referred to mediation or, if the court finds that the parties have negotiated in good faith without success, the court may suggest the case for remand. A determination of good faith may not be necessary with regard to all defendants. The court will continue to prioritize malignant and exigent cases.

10. **MANNER OF SUBMISSIONS**

All submissions to be made to the court pursuant to this order shall be paper filings with copies provided to all remaining viable parties in accordance with Rule 5, F.R.C.P.

11. **SUBMISSIONS TO BE ELECTRONIC**

From the date of this order forward, all submissions and changes or corrections thereto, shall be made and entered into the database at MDL875Submissions.com without the need to submit paper copies to the Court. The requirement for service upon other parties in accordance with Rule 5, F.R.C.P. shall remain. The Court has designated the law firms of Motley Rice (contact person: Lane Andrae) and Forman, Perry, Watkins, Krutz & Tardy (contact person: Mary Margaret Gay) as the Court's designees in assisting counsel with any problems that may occur with database submissions. Further communications with the designer of the software system for the database (Intercon Inc.) for administration purposes relative to Administrative Order No. 12 are now inappropriate as the contract between the Court and Intercon Inc. does not allow for payment of such services.

12. **INCLUSIVENESS OF SUBMISSIONS**

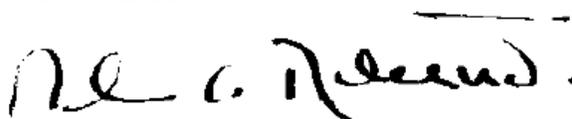
Except for those plaintiffs excluded under Administrative Order No. 12 by reason of their designation as part of 2 MDL 875 (MARDOC), **ALL PLAINTIFFS** with causes currently in MDL 875 are required to comply with the submission requirements set forth within Administrative Order No. 12. If any plaintiff was not included in the original schedule, i.e., plaintiffs with cases filed in the calendar year 2008, they shall comply within 30 days of the date of this order. The submission requirements shall further apply to all new actions assigned to MDL 875. Cases transferred subsequent to the date of this order shall comply within 30 days of the final date of transfer to the Eastern District of

Pennsylvania. Asbestos-related personal injury cases filed directly in the Eastern District of Pennsylvania shall be treated by counsel as if they were transferred into MDL 875 on the date of filing.

IT IS SO ORDERED.

Date: 9/3/09

BY THE COURT

A handwritten signature in black ink, appearing to read "Eduardo C. Robreno, J.", written over a horizontal line.

EDUARDO C. ROBRENO, J.

EXHIBIT "D"

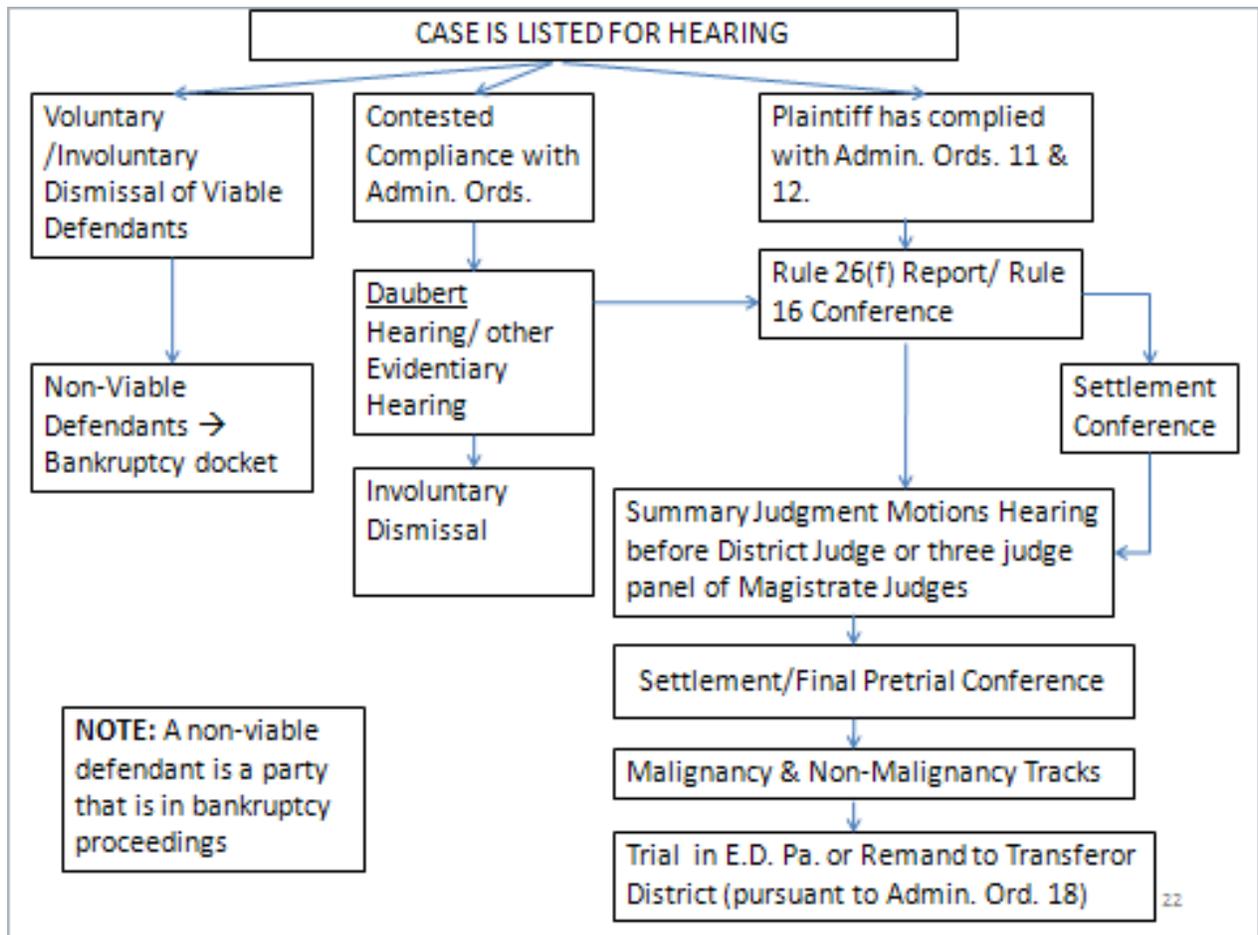


EXHIBIT "E"

Plaintiffs' Land-Based Steering Committee

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EXHIBIT "F"

Home Page Site Map FAQs Notices CM/ECF What's New Courthouse Locations PACER Jury Information Fees Historical Society Services Documents Search

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MDL 875



Welcome to the Web Site for MDL 875!

In Re: Asbestos Products Liability Litigation (No. VI)

United States District Court for the Eastern District of Pennsylvania

The Honorable Eduardo C. Robreno, Presiding

Announcements

* NOTICE: Updates made on September 24, 2012. See [Updates](#).

<http://www.paed.uscourts.gov/mdl875.asp>

EXHIBIT "G"

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

IN RE: ASBESTOS PRODUCTS :
LIABILITY LITIGATION (No. VI) : Consolidated Under
: MDL DOCKET NO. 875
CERTAIN PLAINTIFFS :
: Transferor District Court
v. :
: :
CERTAIN DEFENDANTS :

ORDER

AND NOW, this -- day of ---- 2009, it is hereby **ORDERED** that a hearing on Defendants' motion for a rule to show cause in accordance with Administrative Order No. 12A, in the cases listed in the attached Exhibit "A", will be held on ----, -, 2009 at **10:00 am** in Courtroom 11A, United States Courthouse, 601 Market Street, Philadelphia, PA 19106.

It is further **ORDERED** that those Plaintiffs listed in Exhibit "A", attached, must show that they have complied with the

Court's order requiring the filing of a severed and amended complaint and the payment of an individual filing fee in each case, if required.

It is further **ORDERED** that Plaintiffs' counsel's failure to appear or to be excused from appearing will result in the dismissal of that Plaintiff's case for failure to prosecute.

AND IT IS SO ORDERED.

EDUARDO C. ROBRENO, J.

EXHIBIT "H"

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

IN RE: ASBESTOS PRODUCTS : Consolidated Under MDL 875
LIABILITY LITIGATION (No. VI) :
 :
VARIOUS PLAINTIFFS : Cases listed in Exhibit "A,"
 : attached
v. :
 :
VARIOUS DEFENDANTS :
 :

O R D E R

STATUS AND SCHEDULING CONFERENCE

AND NOW, this ___th day of _____, 2012, it is hereby ORDERED that in the cases listed in Exhibit "A," attached, a status and scheduling conference will be held on _____, _____, 2012, at ___ a.m. in Courtroom ___, United States Courthouse, 601 Market Street, Philadelphia, PA 19106. Prior to the conference, counsel shall review and ascertain the status of each case. **Please review the Frequently Asked Question sheet attached to this Order for general information regarding cases in MDL 875.**

It is further ORDERED that prior to, or at, the conference, Plaintiff's counsel in each action must inform the Court as to the status of the case.¹

¹ If a status update is submitted to the Court prior to the conference, appearance by Plaintiff's counsel is excused. Defense counsel may appear at the conference to ascertain the status of the case, but appearance by Defense counsel is not required. Judge Robreno will not take the bench for the conference. The results of the conference will be posted on the MDL 875 website at: www.paed.uscourts.gov/mdl875u.asp. (Footnote continues...)

It is further **ORDERED** that Plaintiff's counsel shall provide the following information to the Court:

- a.) Each defendant with whom plaintiff has achieved resolution of his or her claim.
- b.) Each defendant that plaintiff now desires to dismiss from the action.
- c.) Each viable defendant that is still active in the case.

It is further **ORDERED** that, as to all viable, active defendants, counsel for the plaintiff in each case shall report to the court:

- a.) Status of compliance with Administrative Order no. 12 as amended.
- b.) Any outstanding discovery.
- c.) Any discovery that is still needed and a timetable for its completion.
- d.) Whether the plaintiff has obtained a medical diagnosing

(...Footnote continued from previous page)

A status update should be made in writing, filed on the docket AND either emailed to the MDL 875 law clerk, Michele_Ventura@paed.uscourts.gov, or sent to:

The Honorable Judge Eduardo C. Robreno
Attn: MDL 875 Law Clerk
U.S. District Court, Eastern District of Pennsylvania
601 Market Street Room 2609
Philadelphia, PA 19106

report or opinion upon which the plaintiff now relies for prosecuting his or her claim. If so, counsel shall provide the name and address of the physician or medical provider who has supplied the diagnosing report or opinion.

e.) Any motions pending.

f.) Readiness for trial and a proposed trial date.³

It is further **ORDERED** that, prior to the hearing, Plaintiffs' counsel may provide the Court with a list of cases which may be dismissed with prejudice or dismissed as to the viable defendants and moved to the bankruptcy only docket. The letter should include the Eastern District of Pennsylvania case number, the name of the plaintiff(s), and whether the case should be dismissed with prejudice or dismissed as to the viable defendants and moved to the bankruptcy only docket. Those cases will be removed from the list, and appropriate orders will be entered.

AND IT IS SO ORDERED.

EDUARDO C. ROBRENO, J.

³ The court will order presumptively that any outstanding discovery be completed within 120 days from the date of the hearing.

EXHIBIT "I"

Motion Procedures

Contested Motions

If you wish to be heard on a contested motion, please follow the following procedure:

- 1. Any substantive, contested motion will be scheduled for a hearing date upon order of the Court. The Court will attempt to schedule hearings at the earliest possible date. When a hearing is scheduled, an order will be entered in each affected E.D. Pa. docket number.**
- 2. In the Court's discretion, any motion may be continued to a different date.**
- 3. All motions must be accompanied by a memorandum of law citing to the substantive or procedural rule which governs the motion.**
- 4. If factual materials are relevant to the determination of the motion, they shall be appended to the motion.**
- 5. Any party opposing the motion shall have fourteen (14) days within which to file and serve a response upon the moving party for non-dispositive motions, and twenty-one (21) days for dispositive motions. This response must include all relevant factual information in opposition to the motion and cite to the substantive or procedural rule relied upon for opposition. See E.D. Pa. Loc. R. Civ. P. 7.1(c).**
- 6. No reply to the opposing party's response shall be filed without leave of court, which shall be sparingly granted. However, parties have a right to file a reply regarding motions for summary judgment. See E.D. Pa. Loc. R. Civ. P. 7.1(c).**
- 7. There will be a strict limit of one continuance granted per party per motion.**

Administrative Motions

- 1. Any matter concerning scheduling or any administrative issue may be brought to the Court by motion.**
- 2. All motions must indicate whether the opposing side has consented and attach a sample formal order stating the relief sought.**
- 3. An administrative motion may be decided by the Court based on the papers without scheduling a hearing.**

EXHIBIT "J"

Settlement Conference Procedures

- 1. Any party may request a settlement conference in their case.**
- 2. In order to obtain a date for your settlement conference, please write or call Judge Robreno's MDL 875 law clerk and inform her of your request for a settlement conference.**
- 3. The MDL 875 law clerk will assign the case to a Magistrate Judge, and the Magistrate Judge will set a settlement conference date.**
- 4. Plaintiff shall give notice of this conference to each viable defendant in each case no fewer than thirty (30) days before the conference is scheduled. A Certificate of Notification of this notice shall be forwarded to the Magistrate Judge assigned to the case prior to the conference.**
- 5. Plaintiff shall provide to each viable defendant a copy of plaintiff's most current medical report relied upon and a synopsis of the exposure evidence against that defendant. Plaintiff is directed to make a reasonable demand upon each of the defendants, and the parties must attempt in good faith to negotiate settlement of the case(s) prior to the conference date.**
- 6. In preparation for the conference, parties must exchange information and complete such discovery as is necessary to be in a posture to negotiate settlement.**
- 7. Parties to all unresolved claims in the case shall appear at the conference with necessary authority to settle the case(s) with their principals present or immediately available to them by phone.**
- 8. The Magistrate Judge has the authority to require the principals to be present, to continue the conference for additional days or to postpone the conference with or without costs assessed.**
- 9. In the event that a claim is settled in full as to any individual claim or defendant, the Magistrate Judge shall dismiss that claim or the claim against the settled defendant with prejudice pursuant to Local Rule of Civil Procedure 41.1(b).**
- 10. In the event that a claim is not settled, the Magistrate Judge shall determine whether further settlement conferences will be helpful. If not, the Magistrate Judge shall inform the Presiding Judge whether the parties have negotiated in good faith and whether the parties are ready for trial or remand.**

EXHIBIT "K"

Trial Procedures

Parties wishing to proceed to trial, either jury or non-jury[1], shall comply with the following:

NOTE: This is the trial procedure for parties that wish to have a trial before an Article I judge (with consent of the parties) or before an Article III judge. In either case, for cases where the transferor court is other than the Eastern District of Pennsylvania, parties must waive any venue objections in order for the case to be tried in the Eastern District of Pennsylvania. See Administrative Order No. 22.

- 1. Write or call the MDL 875 law clerk.**
- 2. Certify that all discovery has been completed and that the parties are ready to try the case within thirty (30) days.**
- 3. Notify the MDL 875 law clerk whether parties will consent to trial before an Article I judge and whether parties have complied with Administrative Order No. 22.**
- 4. The trial judge will hold a scheduling conference promptly and assign a trial date within thirty (30) days.**

[1] Punitive damages in this case have been bifurcated and will not be subject to trial at this time.

EXHIBIT "L"

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

IN RE: ASBESTOS PRODUCTS :
LIABILITY LITIGATION (No. VI) :
-----X
This Document Relates To: : CONSOLIDATED UNDER
: MDL 875
-----, et al, :
Plaintiffs, :
v. : CIVIL ACTION NO.
: 10-69372
-----, et al, :
Defendants. :
-----X

ORDER OF REFERRAL TO MAGISTRATE JUDGE FOR PRETRIAL DISCOVERY, SETTLEMENT CONFERENCE, AND TRIAL PREPARATION

The Court, in accordance with the Court's policies outlined in Administrative Orders No. 3 & 12, has identified the above captioned case as being appropriate for referral to the Honorable Magistrate Judge Thomas J. Rueter to conduct pretrial procedures, supervision of discovery, settlement conferences, and preparation for trial. The Magistrate Judge may enter such orders as may be necessary to facilitate these tasks.

Unless modified by the Magistrate Judge, the scheduling order attached as Exhibit "A" shall be in effect for all cases referred by this order.

All parties remaining in the case shall take the following actions:

1.) Each Plaintiff ("Plaintiff") whose action has been referred to a Magistrate Judge shall, within fourteen (14) days of this date, advise the Magistrate Judge as to all remaining Viable Defendants ("Viable Defendants") (any Defendant not in bankruptcy proceedings or previously dismissed) in each case, together with the name, address, and telephone number of counsel. Plaintiff shall immediately forward to each Viable Defendant a copy of this referral order together with a list of cases in which that Viable Defendant is a named party. A Certificate of Notification certifying delivery of this Order and the notification to each Viable Defendant shall be forwarded to

the Magistrate Judge. In addition, Plaintiff shall provide to each Viable Defendant a copy of Plaintiff's most current medical report relied upon and a synopsis of the exposure evidence against that Viable Defendant. Plaintiff is directed to make a reasonable demand upon each Viable Defendant, and the parties must attempt in good faith to negotiate settlement of the case(s) prior to any settlement conference before the Magistrate Judge.

In furtherance thereof, the parties shall promptly exchange information and complete such discovery as is necessary to be in a posture to negotiate settlement. If the action remains unsettled, Plaintiffs and all Viable Defendants shall appear at all conferences with necessary authority to settle the case(s) with their principals present or immediately available to them by telephone. The Magistrate Judge may require the principals to be present, to continue the conference for additional days, or to postpone the conference with or without costs assessed.

All unresolved discovery issues shall be brought to the attention of the Magistrate Judge within twenty (20) days of the date of this order, or immediately as any such issue may arise in the future.

All parties shall comply with the requirements of Section 9, Administrative Order No. 12. Plaintiff MUST have made his/her submissions in accordance with Administrative Order No. 12, and all viable parties MUST have made payment to the Clerk of the Court as required under Administrative Order No. 14. A copy of each party's position paper relating to any scheduled settlement conference shall be received by the Magistrate Judge no later than three (3) days prior to the conference.

Inquiries relating to these cases and all matters scheduled hereunder may be directed to the Chambers of the Honorable Magistrate Judge Thomas J. Rueter at (215)-597-0048.

THE MAGISTRATE JUDGE MAY IMPOSE SANCTIONS AND/OR COSTS AGAINST ANY PARTY NOT IN COMPLIANCE WITH THIS NOTICE AND THE ORDERS SPECIFICALLY INCORPORATED BY REFERENCE AND ANY ORDERS ISSUED IN FURTHERANCE HEREOF.

Accordingly, it is **ORDERED** that the Court refers the above captioned action pending in MDL 875 to the Honorable Magistrate Judge Thomas J. Rueter for proceedings in accordance with this Order.

BY THE COURT:

Date:

Eduardo C. Robreno J.

EXHIBIT "M"

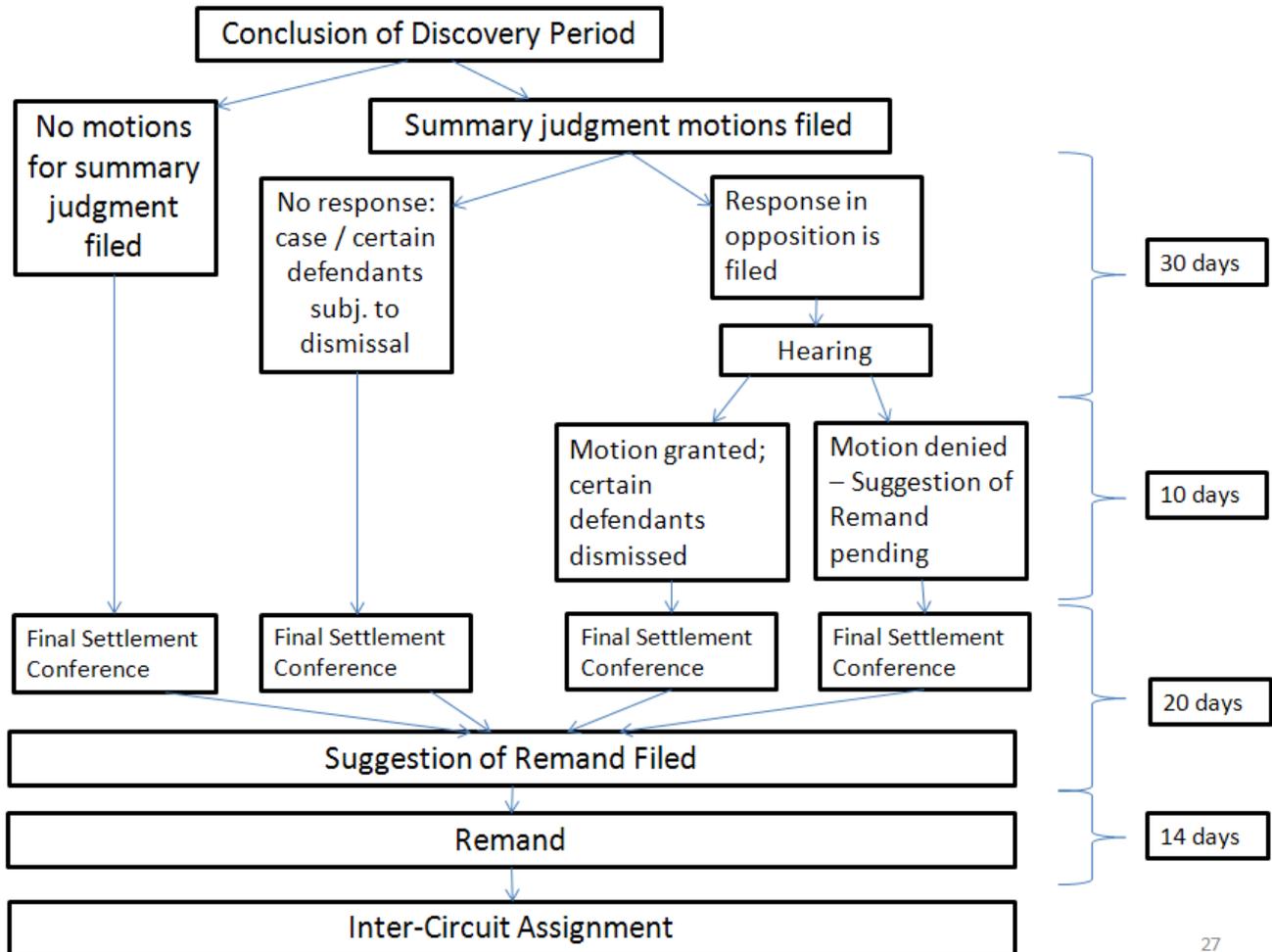


EXHIBIT "N"

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

IN RE: ASBESTOS PRODUCTS : MDL DOCKET NO. 875
LIABILITY LITIGATION (No. VI) :
: :
: Civil Action No.
: 2:01-md-875
THIS DOCUMENT RELATES TO :
ALL ACTIONS :

ADMINISTRATIVE ORDER NO. 18

Upon consideration of the motion to alter or amend Administrative Orders 3, 14, 15, and 16, filed on behalf of certain Plaintiffs by Motley Rice, LLC, the Court will institute a set procedure for Counsel seeking remand of an individual Plaintiff's case to the appropriate transferor District Court. Plaintiffs seeking to have their case remanded must file a motion for a suggestion of remand that conforms to the requirements set forth in this Administrative Order.

A motion for a suggestion of remand must contain, at a minimum, the following information with regard to each individual claim:

- 1.) The civil action number of the case in the district where it was originally filed.
- 2.) The civil action number of the case in the Eastern District of Pennsylvania, if the case has been assigned an E.D. Pa. civil action number.
- 3.) The name of the plaintiff in the case.
- 4.) The diagnosing report or opinion relied upon by plaintiff in compliance with Administrative Order no.

12.

- 5.) The identity of defendants that are still viable¹ in the case.
- 6.) A certification that the motion requesting the suggestion of remand has been served upon counsel for all other parties to the action.
- 7.) The specific reasons why remand is appropriate in this case. Plaintiff should specify:
 - a.) Whether Plaintiff has complied with Administrative Orders 12 and 12A.
 - b.) Whether the injured Plaintiff is alive.
 - c.) Whether the parties have submitted a Rule 26(f) report to the Court.
 - d.) Whether all relevant discovery has been completed or has been substantially completed. If not, identify the discovery still to be completed.
 - e.) The extent to which settlement conferences have been held in the case and the status of settlement negotiations.
 - f.) Whether there are any outstanding motions in the case. Counsel seeking remand should be able to certify that there are no outstanding motions remaining in the case.

¹ A viable defendant is a defendant which has not been dismissed from the case and is not in bankruptcy proceedings.

- g.) Whether, if the case is remanded, the Plaintiff is prepared for trial without delay once on the transferor court's normal docket.
- h.) The status of congestion in the transferor court docket.

After a motion for a suggestion of remand is filed with the Court, any Defendant opposing the suggestion of remand will be given 15 days to file a response. If there is no response filed and the Court determines that a suggestion of remand is appropriate, the motion will be granted as uncontested, pursuant to Local Rule of Civil Procedure 7.1(c). If there is a response, the Court will make a ruling on the parties' filings or schedule a hearing on the matter, if necessary.

Additionally, if a Plaintiff's case is prepared to proceed to trial, and all of the parties provide the necessary consent, both Article I and Article III Judges are available to hold trials in the Eastern District of Pennsylvania. Details on the procedure for requesting trial in the Eastern District of Pennsylvania, as well other MDL 875 case information, can be found on the MDL 875 website, available at www.paed.uscourts.gov/mdl875.asp.

AND IT IS SO ORDERED.

EDUARDO C. ROBRENO, J.

EXHIBIT "O"

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

IN RE: ASBESTOS PRODUCTS : Consolidated Under
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875
: :
: Transferred from (DISTRICT)
PLAINTIFF : Case No.
: :
v. : :
: :
DEFENDANT : E.D. PA No. _____

SUGGESTION OF REMAND

AND NOW, this ___th day of _____, 2012, it is hereby **ORDERED** that, upon review of the above captioned case under MDL-875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30, 2009), ECF No. 6197, the Court finds that, as to the above-captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative Orders 12 and 12A (see the MDL 875 website's Administrative Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule 16 order issued by the Court (see ECF No. ____).
- c.) All discovery has been completed.
- d.) The Court has adjudicated all outstanding motions, including dispositive motions. Particularly relevant rulings include:

- i.

ii.

e.) Rule 18 settlement discussions have been exhausted at this time as to the remaining viable defendants.

f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

(THIS SECTION SUBJ. TO CHANGE, e.g. if transferor court will be dealing with a given legal issue)

g.) The remaining viable Defendants for trial are:

i.

ii.

iii.

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).

Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **(DISTRICT)** for resolution of all matters pending within this case except punitive damages.¹

¹ The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible

Alternatively, parties in the below-listed cases have **seven (7) days** within which to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60) days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.

EDUARDO C. ROBRENO, J.

public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).

EXHIBIT "P"

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