

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

In Re: ASBESTOS PRODUCTS	:	
LIABILITY LITIGATION (No. VI)	:	Civil Action No:
	:	MDL 875
This Document Relates to	:	
BRIGHAM v. AC&S, INC., et al.	:	E.D. Pa. Case No. 2:08-CV-89984
and the Cases Identified on the	:	
Attached List	:	

**ORDER**

**AND NOW**, this 20th day of November, 2012, upon consideration of “General Electric Company’s Motion to Bar Plaintiffs’ Witnesses That Were Not Timely Tendered for Deposition” (i.e. 12-60004 Doc. 127) and the response (i.e. 12-60004 Doc. 137), and after an October 15, 2012 teleconference on the motion, it is hereby **ORDERED** that:

1. all motions for joinder are **GRANTED**; and
2. the motion to bar is **DENIED**.<sup>1</sup>

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<sup>1</sup> On August 29, 2012, General Electric Company (“GE”) requested from CVLO a list of witnesses CVLO intended to use against GE in each case where GE was named as a defendant within the CVLO-6 and 7 case groups. GE also requested deposition dates for any such witnesses. On September 4, 2012, CVLO provided a list of seventeen witnesses but offered no specific dates for deposition. Later on September 4 and then on September 10, 2012, GE again requested deposition dates for all of the listed witnesses. At the time, the discovery deadline for the CVLO- 6 cases was September 14, 2012 and for the CVLO-7 cases, was October 1, 2012. CVLO produced deposition dates for several of the witnesses who were then deposed before the close of fact discovery. CVLO also produced deposition dates for several more witnesses but, without objection from GE, set their depositions a few days after the close of discovery. These depositions were also taken. As of October 1, 2012, no deposition dates were set for nine of the listed witnesses. However, after the close of discovery and without the agreement of GE, CVLO produced deposition dates for more of the witnesses. It is these witnesses that GE argues were untimely proffered and that Plaintiffs should be barred from utilizing.

We have impressed on the parties many times in the past the importance of complying with the scheduling orders in MDL cases. E.g. Ferguson v. A.C. & S., Inc., 08-90234 Doc. 94); Unzicker v. A.W. Chesterton Co., No. 11-cv-66288, 2012 WL 1966028, at \*3-4 (E.D. Pa. May 31, 2012); Pray v. A.C. and S., 08-91884 Doc. 94; Quist v. The Anaconda Co., 08-88398 Doc. 104; Johnson v. A W Chesterton Co., 11-6278 Doc. 154. While we are not necessarily adverse to the

BY THE COURT:

/s/ David R. Strawbridge  
DAVID R. STRAWBRIDGE  
UNITED STATES MAGISTRATE JUDGE

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parties noticing depositions before the close of discovery and taking them shortly after the deadline, we have not sanctioned the noticing of depositions after the close of discovery. GE was not obligated to accept deposition dates proffered by Plaintiffs after the close of discovery. We will not require them to do so.

In its motion, GE “requests that the Court bar CVLO from offering the testimony of any witness against GE in a Group 6 or 7 case unless the witness was tendered to GE before the October 1, 2012 close of discovery and the tendered deposition date was not cancelled by CVLO.” (Doc. 127, p. 8). We acknowledge GE’s concern that Plaintiffs might attempt to use declarations from these purported witnesses to support their cases at a later time. However, without such a declaration before us in a specific context, such a ruling would be premature. We decline to grant this request. See (Ferguson, 08-90234 Doc. 94).

## CASE LIST

BRIGHAM v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:08-CV-89984
BROWN v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:08-CV-89945
CARLSON v. A.W. CHESTERTON CO., et al.	: E.D. Pa. Case No. 2:10-CV-67533
EULGEN v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:12-CV-60019
GADDY v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:08-CV-90081
GRAHAM v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:08-CV-90139
JURGLANIS v. BORG-WARNER INC., et al.	: E.D. Pa. Case No. 2:12-CV-60003
KLIMEK v. AC&S INC, et al.	: E.D. Pa. Case No. 2:08-CV-90065
KRUEGER v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:12-CV-60020
MATLOCK v. AIRCO INC/BOC GROUP et al	: E.D. Pa. Case No. 2:08-CV-90099
McCLAIN v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:08-CV-89814
McNAIR v. BORG-WARNER, INC., et al.	: E.D. Pa. Case No. 2:12-CV-60160
PEHLKE v. A.O. SMITH CORP., et al.	: E.D. Pa. Case No. 2:12-CV-60049
ROME v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:08-CV-89825
SPYCHALLA v. AVCO CORP., et al.	: E.D. Pa. Case No. 2:12-CV-60004
SVATEK v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:11-CV-64036
TRAVIS v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:08-CV-90170
WHITE (Bingham-Draine) v. AC&S, INC, et al	: E.D. Pa. Case No. 2:08-CV-90171
WOODMASTER v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:08-CV-91087
ZIELINSKI v. AC&S, INC., et al.	: E.D. Pa. Case No. 2:08-CV-90007