

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

| | | |
|-------------------------------|---|-------------------|
| IN RE: ASBESTOS PRODUCTS | : | MDL DOCKET No.875 |
| LIABILITY LITIGATION (No. VI) | : | (MARDOC) |
| | : | |
| | : | |
| | : | |
| THIS DOCUMENT RELATES ONLY TO | : | CIVIL ACTION NO. |
| THOSE CASES IDENTIFIED IN THE | : | 2:02-md-875 |
| ATTACHED LIST (PRODUCTS and | : | |
| LAKES) | : | |

CASE MANAGEMENT AND SCHEDULING
ORDER FOR MARDOC GROUP 7

AND NOW, this 21st day of November, 2011, following extensive correspondence among counsel for the parties and the Case Administrator, Christopher Lyding, Esq., and upon consideration of all of the parties' proposals and suggestions to the Court as to the best course of action for moving the MARDOC litigation forward, **IT IS HEREBY ORDERED THAT** the following discovery and pretrial management deadlines shall apply:

1. For purposes of discovery, all cases are grouped by common defendants and regions as proposed by Plaintiffs. Each grouping shall contain approximately 500 cases. Seven separate scheduling orders are being issued simultaneously encompassing all MARDOC cases,¹ as follows (this Order relates to Group 7):

- Group 1 - "Oil Companies"
- Group 2 - "West Coast"
- Group 3 - "East Coast I"
- Group 4 - "East Coast II"
- Group 5 - "Gulf Coast"
- Group 6 - "Towing"
- Group 7 - "Products" and "Lakes"²

¹See Order dated October 19, 2011 (Doc. 576), defining the current active MARDOC case list.

²Plaintiff has proposed separate groups 7A and 7B, but these groups will be handled together in a single group 7.

2. The Defendants shall designate one liaison counsel for each discovery group who shall be responsible for coordinating scheduling issues on behalf of Defendants.
3. The Defendants shall provide a Master Rule 26(a)(1) initial disclosure, along with a case list to be provided to the Clerk of Court on disks by **January 4, 2013**. The Plaintiffs shall provide Rule 26(a)(1) disclosures by **January 4, 2013**.
4. Plaintiffs shall make available a copy of Plaintiff's Form Personal Injury Complaint and Wrongful Death Complaint to any Defendant requesting same. In lieu of filing a separate Answer to each Complaint, Defendants shall file a Master Answer to All Complaints and a Notice of Appearance in each case, along with a case list to be provided to the Clerk of Court on disks. Complaints may only be amended upon leave of court. When an amended complaint adds a new entity as a defendant for the first time in an action, counsel for such new defendant shall file an Answer within 30 days after the entity was served with the summons and complaint.
5. The parties shall agree as to the form of standard discovery to be used. Standard discovery will be deemed served 30 days prior to the deadline for initial disclosures set forth in paragraph 3 above. If there is any dispute as to which form of standard discovery shall apply, the parties shall immediately inform the Case Administrator, Christopher Lyding, Esq. In addition, each Defendant is allowed to submit ten (10) additional defendant-specific written interrogatories without leave of court. The Parties, with leave of court or otherwise stipulated, may serve additional written interrogatories and/or request to produce documents at any time up until 30 days before the end of the fact discovery period. Defendants may request from Plaintiff additional authorizations for records not expressly identified based on Plaintiff's specific case.
6. Upon written request of any Defendant, living Plaintiffs shall travel one time, at Plaintiff's expense, to the district in which suit was filed for an independent medical examination by a physician or physicians designated by the Defendants within the particular district.
7. All medical evidence in Plaintiffs' possession, or that will be presented to, or relied upon by Plaintiffs' experts, including X-rays and pathology, must be submitted to Veritext by **January 4, 2013**.
8. All fact discovery must be completed by **April 9, 2013**.

9. Depositions shall be noticed in individual cases and in the MARDOC MDL 875-2. These depositions can be used for any case filed in MDL-875-2 regardless of its grouping and scheduling order. All deposition notices shall include as an attachment the plaintiff's/injured party's list of employers, list of vessels aboard which the injured party served as well as full and complete notice of all plaintiffs and products a deponent is prepared to address. Depositions conducted during discovery are to be governed by the Federal Rules of Civil Procedure, as well as by any future protocol agreed to by the parties and approved by the Court.

10. Plaintiffs shall provide to Defendants the names of the cases, vessels and products about which a co-worker witness will testify. The list of co-workers shall include names of all Plaintiffs with whom the co-worker sailed, as well as the names of any vessels on which the co-worker sailed, the co-worker's rating(s) and his sailing dates on each vessel. If a Plaintiff intends to use co-worker testimony in multiple cases, Plaintiff must provide a stipulation in advance identifying which cases the co-worker will testify in and the ships and products about which he will testify and that regardless of what deposition testimony the co-worker actually provides, the stipulation controls as to the admissibility of testimony in individual cases.

11. In response to a Plaintiff's request for a Rule 30(b)(6) deposition, Defendants who have previously provided Rule 30(b)(6) depositions in the maritime cases shall be permitted to produce such transcripts in lieu of producing a representative. Plaintiff shall seek leave of court to conduct any further deposition of said representative.

12. Plaintiffs' expert reports must be filed by **May 13, 2013**.

13. Defendants' expert reports must be filed by **July 5, 2013**.

14. Any rebuttal expert reports must be filed and all expert discovery must be completed by **August 2, 2013**.³

15. Any dispositive motions, including motions to exclude experts and motions contesting personal jurisdiction, must be filed by **September 6, 2013**.

³ If the expert witness will not be testifying to matters specific to a Plaintiff (i.e. industrial hygiene, state-of- the-art, human factors) and has been used as an expert witness in other asbestos cases, in lieu of serving a written report, the parties shall make available copies of the full deposition or trial transcripts of that witness' testimony which reflect the general opinions the witness is expected to give at trial. The Parties are entitled to request production of additional exemplars of the expert's testimony as well as all exhibits utilized by the expert. The Parties must also produce information concerning qualifications, publications authored, testimony in previous 4 years and compensation. Defendants will be permitted to depose any general expert at least one time with regard to his general opinions.

16. Responses to dispositive and expert motions must be filed by **October 4, 2013**.
17. Replies to responses must be filed by **October 22, 2013**.
18. The protocol for settlement conferences will be addressed by separate order.

BY THE COURT:

/S/ELIZABETH T. HEY

ELIZABETH T. HEY
UNITED STATES MAGISTRATE JUDGE