

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

CASE MANAGEMENT ORDER NO. 20
RE: PROCEDURE FOR RESOLUTION OF WRITTEN DISCOVERY DISPUTES
— MOTIONS FOR ORDERS TO COMPEL —

AND NOW, this 25th day of November, 1997, upon conference, the following procedures shall govern resolution of written discovery disputes among the parties:

1. Failure to respond timely to written discovery requests

In the event that timely responses to written interrogatories, document requests or questionnaires are not forthcoming, the proponent of the discovery should file a motion to compel, which shall set forth the date the discovery was served and the due date for the responses, together with an averment of the default. No brief or copy of the interrogatories, document requests or questionnaires should accompany the motion. Upon receipt of such a motion, the Court, without waiting for a response, may enter an order directing the discovery to be provided by a certain date. See E.D. Pa. Local Rule 26.1(g). This is consistent with Judge Ludwig's case management policies.

2. Disputes regarding discovery objections or adequacy of responses — Good faith effort to resolve; submission to the Special Master

In the event of a discovery dispute — in contrast to a default — by reason of the respondent's objections or concerning the adequacy of responses to interrogatories, document requests or questionnaires, the parties shall promptly and in good faith exert every reasonable effort to resolve their differences. See E.D. Pa. Local Rule 26.1(f). Where objections are made, the objecting party shall provide all discovery that such party does not consider to be objectionable. As a last resort, any unresolved dispute shall be submitted to the Special Master, as follows:

1. With the approval of the Special Master, the parties may mutually agree to submit the dispute(s) orally — in person or by telephone.
2. Otherwise, the parties shall make a joint written submission, signed by all counsel involved, setting forth as to each individual discovery item in dispute the interrogatory, document request, and questionnaire, together with the answer and response, including any objection, as well as the parties' respective positions. These shall be set forth in sequence and, if practicable, on a single page — and in any event, separate and apart from any other discovery dispute. Case citations and other authority should be included.

Copies of all submissions shall be sent to Plaintiffs' Lead and Liaison Counsel and Defendants' Liaison Counsel.

No submissions to the Special Master shall be filed of record.

3. The Special Master may, but need not, issue an argument schedule and may hear argument in person or by telephone.

4. As determined by the Special Master, rulings may be made orally or in writing or both. Rulings as to which no written exception is taken within five (5) calendar days from the date first announced shall be deemed to have been accepted and shall be binding upon the parties. Exceptions shall be directed to the Special Master.

5. Upon receipt of an exception to a ruling, the Special Master shall transmit to the Court, with copies to the parties and Plaintiffs' Lead and Liaison Counsel and Defendants' Liaison Counsel, a form of "Recommended Order." The matter shall be treated as the discovery proponent's motion for an order to compel. The "Recommended Order," in addition to the Special Master's ruling and memorandum of explanation, shall include, as an attachment, the parties' joint submission, described in ¶ 2 above.

Within seven (7) calendar days after receipt of the "Recommended Order," any party may request permission from the Court, orally or in writing, to submit additional argument or other matters.

Upon granting or denying a motion for an order to compel, the Court shall have filed of record all pertinent documents and papers.¹

Edmund V. Ludwig, J.

¹ To the extent that the procedure delineated in this CMO is in conflict with that specified in CMO No. 1A, at page 3, this CMO shall take precedence, and CMO No. 1A is hereby amended to conform with this CMO.