

**UNITED STATES DISTRICT COURT  
for the  
Eastern District of Pennsylvania**

Chambers of  
LOWELL A. REED, JR.  
Senior Judge

4001 United States Courthouse  
Independence Mall West  
601 Market Street  
Philadelphia, PA 19106-1705  
215-597-0022

August 25, 2010

**Asbestos MDL 875 Mediation: Progress Report and Case Management Order**

Via E-Mail

To: All Counsel Who Attended the August 17, 2010 Rule to Show Cause Hearing and Mediation Planning Conference Thereafter.

Dear Counsel:

This letter commemorates the key dates and ideas set forth before the Mediator on August 17, 2010.

1. Plaintiffs' counsel shall submit to the IKON repository all additional records for all pending cases in all jurisdictions subject to mediation<sup>1</sup> by **November 1, 2010**. Records shall include, *inter alia*, all AO12 submissions and any other relevant medical information. Plaintiffs' counsel shall submit the records on a rolling basis by district and shall submit a report to the Mediator and the defense liaison counsel when the documents for each district are submitted to the IKON repository.
  
2. By **August 31, 2010**, plaintiffs' counsel shall conduct a careful administrative review of their files and provide the Mediator with a list of the remaining defendants named and served in their cases. That list will be posted on the courthouse asbestos website. Thereafter, by **September 30, 2010**, defense counsel shall contact plaintiffs' counsel with any objections they may have to being named on that list. By **October 12, 2010**, after discussing the objections with defense counsel, Plaintiffs' counsel shall provide to the Mediator a final list of currently named defendants. The final list will supplant the original list on the courthouse asbestos website. Once the list is finalized, the defendants named therein will participate in the mediation proceedings.

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<sup>1</sup> The Mediator has been informed by Judge Robreno that all of the Cascino Vaughn cases filed in or transferred to MDL 875 will be assigned to the Mediator in due course.

3. The Mediator is aware of the dispute between plaintiffs' counsel and Owens Illinois regarding the alleged settlement of eight cases. See (Pl.'s Resp. to Rule to Show Cause Order; Doc. No. 7413, Ex. F). By **August 31, 2010**, plaintiffs' counsel shall submit to the Mediator and counsel for Owens Illinois, a position paper regarding this issue along with any necessary supporting documents and case law. By **September 14, 2010**, counsel for Owens Illinois shall submit a response with supporting documentation and case law to the Mediator and to plaintiffs' counsel. Thereafter, I will schedule a mediation session to resolve the issue, if necessary. The mediation session will be in the style of a hearing on a motion to enforce the alleged settlement. Prior to submitting the position papers, counsel may confer and agree upon the law that will apply to this issue. In the absence of an agreement, Pennsylvania law will apply.
4. By **November 1, 2010**, plaintiffs' counsel shall review their files, identify the cases which they are willing to dismiss as a result of the dispute over the Indiana statute of limitations issue, and contact all affected plaintiffs to secure their permission to dismiss the cases. By **December 1, 2010**, plaintiffs' counsel shall submit a report to the Mediator and the defense liaison team detailing the results of their efforts. By **January 10, 2011**, the defense liaison team shall submit to the Mediator and to plaintiffs' counsel a response to the report. Any arguments regarding legal issues will utilize Indiana choice of law rules.
5. In regards to Judge Robreno's August 18, 2010 order requiring plaintiffs' counsel to submit to him a report classifying certain cases by September 17, 2010, plaintiffs' counsel shall also submit copies of the report to the Mediator and the defense liaison team.

Sincerely,

/s/ Lowell A. Reed, Jr  
LOWELL A. REED. JR.

cc: The Honorable Eduardo C. Robreno