

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

4006 United States Courthouse
601 Market Street
Philadelphia, PA 19106

David R. Strawbridge
United States Magistrate Judge

(267)299-7790

May 2, 2011

Re: Asbestos MDL 875 Mediation: Items Set at the April 27, 2011 Mediation Management Planning Conference for the Cascino Vaughan Asbestos Cases Referred to Judge Strawbridge

To: All Counsel

Via: E-Mail

Dear Counsel:

This letter order summarizes the deadlines set, and items ordered at the MDL-875 mediation management planning conference on April 27, 2011:

1. Regarding the remaining truant defense counsel: By **May 2, 2011**, plaintiffs' counsel shall submit a status report to the mediator regarding their success in contacting any remaining defense counsel who have not previously responded to plaintiffs' counsel's requests for information.
2. Regarding the selection of the so-called "50 Top Cases": On or before **May 3, 2011**, plaintiffs' counsel shall submit to the defense liaison committee, following the procedure set at the conference, a draft stipulation regarding the time line for: (a) identification of the 50 cases selected according to the criteria discussed at the conference,¹ and submission of a list of which defendants are in each case, a list of necessary witnesses for each case, and all medical records; and (b) the submission of expert reports and any disagreements based thereon. On or before **May 6, 2011**, the defense liaison counsel shall provide any relevant comments to plaintiffs, and the parties shall submit the completed, signed stipulation to the mediator by **May 11, 2011**.

¹At the conference, Plaintiffs' counsel represented that they would select cases which: (1) contain claims by plaintiffs for damages relating to more serious asbestos-related diseases, including mesothelioma and cancer, with particular preference given to plaintiffs currently living with cancer; (2) contain the most reliable or credible medical evidence of an asbestos-related disease; (3) have the strongest evidence of causation, including product identification and exposure; (4) arise from a representative number of job sites and (5) are representative in terms of the application of either Illinois and Wisconsin law and the legal issues anticipated to arise in those jurisdictions.

3. Regarding the final pending case list: By **May 6, 2011**, plaintiffs' counsel shall submit to the defense liaison committee, with a copy to the mediator, a list of each pending case and: (a) the names of each defendant in each case, (b) the disease(s) involved in each case, and (c) whether, for each case, the plaintiff is alive or deceased.
4. Regarding the allegedly settled 51 cases involving Owens Illinois: Plaintiffs' counsel and counsel for Owens Illinois shall continue to vigorously attempt to settle this issue. On **May 18, 2011**, counsel shall submit a joint report to the mediator detailing their progress. If the parties are unable to settle the issue, the mediator will then rule upon the dispute.
5. Regarding the alleged mining defendants (Rapid American, Amchem, and Union Carbide) and the applicability thereto of the Indiana Statute of Repose exclusion for asbestos miners: by **May 22, 2011**, plaintiffs' counsel shall submit to the mediator, with copies to the relevant defense counsel, a report on which of these defendants they allege are miners of asbestos and, thus, not protected by the Indiana Statute of Repose.
6. Regarding future discovery requests: on or before **May 27, 2011**, plaintiffs' counsel shall identify to the mediator, the affected defendants, and the defense liaison committee, all other defendants upon which they wish to serve discovery requests. After any relevant discussion with defense counsel, on or before **June 29, 2011**, plaintiffs counsel shall serve all such discovery requests.
7. Regarding current discovery disputes: by **May 31, 2011**, plaintiffs' counsel shall, after making every effort to resolve all discovery issues with the defendants currently served with discovery requests (Rapid American, Union Carbide, CBS/Westinghouse, Amchem and Georgia Pacific), submit a letter brief to the mediator with copies to the relevant defense counsel requesting rulings on any unresolved issues. On or before **June 8, 2011**, defense counsel, shall file a response to plaintiffs' counsel's letter brief.
8. Regarding third-party discovery: Plaintiffs' counsel shall serve all remaining third-party/non-party discovery no later than **June 29, 2011**.

Yours sincerely,

S/ David R. Strawbridge
Hon. David R. Strawbridge
United States Magistrate Judge

cc: The Honorable Eduardo C. Robreno