

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

In Re: ASBESTOS PRODUCTS	:	Civil Action No:
LIABILITY LITIGATION (No. VI)	:	MDL 875
	:	
This Document Relates to	:	E.D. Pa. Nos:
	:	
JACKSON	:	08-CV-90263
JONES	:	08-CV-90132
KELLEY	:	10-CV-67555
SCHMIDT	:	08-CV-90063
VAN STIPPEN	:	11-CV-63483
WILLEY	:	08-CV-90166

ORDER

AND NOW, this 29th day of January, 2013, following upon Plaintiffs' Motion To Alter and Correct November 16, 2012, Order Granting Moot Motions to Strike in Error" (e.g. 08-90263 Doc. 132), it is hereby **ORDERED** that the motion is **DENIED**.¹

BY THE COURT:

/s/ David R. Strawbridge
DAVID R. STRAWBRIDGE
United States Magistrate Judge

¹ CVLO asks us to amend our November 16, 2012 Ferguson memorandum and order "to vacate the granting of motions to strike that were moot at the time of the ruling." Specifically, CVLO contends that weeks before we issued our Ferguson ruling striking various interrogatory responses as unverified, certain Defendants who had filed some of the motions to strike were dismissed by the Plaintiffs, rendering their motions moot. We see no reason to vacate our ruling striking the unverified interrogatory responses in these cases. The fact that some moving parties were dismissed before our ruling does not cure the infirmities inherent in the responses. Indeed, we specifically filed our Ferguson decision in all of the remaining CVLO cases and stated that the "general principles [announced in the memorandum were] applicable in all CVLO cases." Ferguson v. A.C. & S., Inc., 08-90234, MDL 875, 2012 WL 5839023, at *9 (E.D. Pa. Nov. 16, 2012). We did this so that it would be abundantly clear that, regardless of whether a Defendant filed a motion to strike, an unverified interrogatory response is no response at all and may not be utilized by the Plaintiff. Ferguson, 2012 WL 5839023, at *7-8; see also Unzicker v. A.W. Chesterston Co., 11-66288, MDL 875, 2012 WL 1966028, at *2 (E.D. Pa. May 31, 2012). Even if we vacated the portions of the order at issue, Plaintiffs would still not be able to utilize the unverified interrogatory answers in these cases.

Moreover, as CVLO acknowledges, other Defendants, who are still viable, joined in these motions in all but one of the cases (Schmidt 08-CV-90063). We do not find it significant that some of the joinders were filed after the moving parties were dismissed.