

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)
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	:	
	:	
THIS DOCUMENT RELATES TO	:	CIVIL ACTION NO.
ALL ACTIONS	:	2:02-md-875
	:	

ORDER CLARIFYING SCHEDULING ORDERS

AND NOW, this 4th day of January, 2012, upon consideration of Plaintiffs' Objections to the MARDOC Scheduling Orders and Request for Amendment (Doc. 613), the responses thereto (Docs. 621 and 622) and plaintiffs' reply (Doc. 625 Exh. A), and certain defendants' Cross-Motion to Compel Execution of Authorizations (Doc. 616) and plaintiffs' response (Doc. 624), and following a telephone conference on January 3, 2012,¹ it is hereby ordered as follows:

1. Plaintiffs' objections are sustained in part and overruled in part. Paragraph 7 of the Scheduling Orders in all 7 groups is hereby amended to read as follows (the deadline identified in paragraph 7 ("[date]" below) remains as originally ordered for each group):

7. All medical records in plaintiffs' possession must be provided to defendants by [date]. Any medical records that come into plaintiffs' possession after that date must be provided to defendants no later than one week following plaintiffs' receipt. As to each plaintiff, plaintiff must submit original medical evidence such as x-rays and pathology tissue to defendants within two weeks of the examination of such evidence by plaintiff's trial expert, and in no event later than the close of fact discovery.

2. Administrative Order 25 § B.3. required plaintiffs to submit by October 31, 2011, authorizations for the release of medical, tax, military and personnel records in the first two

¹Participating on the telephone conference were attorneys John Herrick and Donald Krispin and paralegal Lane Andrae for plaintiffs, and attorneys Harold Henderson and John Deitch for defendants. Mr. Herrick also submitted a letter after the teleconference.

groups of cases, and by January 6, 2012, for the remaining cases. Questions have arisen concerning the specific authorization forms to be used. Defendants' motion to compel plaintiffs to use the Veritext authorization forms is denied. The parties have not reached agreement on the use of a third-party vendor, and I will not impose a requirement that they do so. This is not intended to prevent or inhibit the parties from using Veritext or another vendor for their document collections and productions.

3. With respect to medical records, Plaintiffs have explained that their practice has been to provide a single "blank" signed medical authorization for each plaintiff, which can then be used by defendants to seek records from any health care provider. Defendants request that plaintiffs be required to submit separate signed authorizations for each provider, or in the alternative a list of all health care providers together with the single authorization, to avoid the delay involved in waiting for responses to their interrogatory requests before sending out the authorizations. Paragraph 3 of the Scheduling Orders in all 7 groups is hereby amended to require plaintiffs, as part of their initial disclosures, to provide a list of health care providers (names and addresses) together with approximate time periods during which they sought treatment. With respect to Group 1, for which the deadline in paragraph 3 is January 13, 2012, the deadline for the information required in this paragraph is extended to February 13, 2012.

4. An issue arose during the telephone conference concerning the discoverability of bankruptcy claims in the context of a case raising Jones Act claims, which I will treat as simultaneous oral motions to compel by all defendants and motions for protective order by all plaintiffs. Any party wishing to present legal argument on this issue shall file a letter brief on the MDL 875 MARDOC docket no later than January 13, 2012. These letters should also address

the method for obtaining discovery of bankruptcy claims. No responses or replies shall be filed.

5. If the parties are unable to reach a mutually acceptable way to use the authorization forms plaintiffs have provided for obtaining Coast Guard discharge records, plaintiffs must obtain new authorization forms on mutually agreeable forms. The parties shall report to Mr. Lydng no later than January 20, 2012, whether they will require the Court's assistance on this issue.

BY THE COURT:

ELIZABETH T. HEY
UNITED STATES MAGISTRATE JUDGE