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

November 23, 2009

Asbestos MDL 875 Mediation: Progress Report and Case Management Order

Via E-Mail

To: All Counsel Who Participated in the November 19, 2009 Mediation Planning Conference

Dear Counsel:

This letter order commemorates the issues and dates set during our all-day November 19, 2009 mediation planning conference:

Discovery Regarding Physician Witnesses

- 1. a. On or before **Monday**, **December 7**, **2009**, defense counsel shall submit to chambers, with a copy to plaintiffs' counsel, a written update regarding the status of discovery on the diagnosing doctors, the likelihood of making <u>Daubert</u> challenges, and what other steps defense counsel would like to take in order to alleviate any concerns.
 - b. On or before **Monday**, **December 14**, **2009**, plaintiffs' counsel shall submit to chambers, with a copy to defense counsel, a written response to defendants' letter.

Discovery Regarding Product Identification and Exposure

- 2. a. On or before **Monday**, **December 28**, **2009**, plaintiffs' counsel shall write to defense counsel, with a copy to chambers, requesting documents and testimony in the defendants' possession relating to asbestos product identification and asbestos insulated equipment by major job sites, providing legal and factual reasoning for the requests.
 - b. Plaintiffs' counsel and defense counsel shall then meet and discuss the requests shortly there after.

c. Counsel shall submit a joint written report on this issue to chambers by **Friday, January 8, 2010.**

Statutes of Repose and Choice of Law

- 3. a. On or before **Tuesday**, **January 12**, **2010**, defense counsel shall submit to chambers, with a copy to plaintiffs' counsel, a memoranda on the issues of applicable statutes of repose and choice of law.
 - b. On or before **Tuesday, February 2, 2010,** plaintiffs' counsel shall submit to chambers, with a copy to defense counsel, a response to defendants' memorandum.

Third Planning Session Set

- a. A third mediation planning session has been scheduled for 9:30 a.m. on Thursday, February 11, 2009 in Courtroom 4B, United States Courthouse, Philadelphia, Pennsylvania. Please set aside the entire day for this proceeding.
 - b. Counsel shall submit a joint proposed agenda for the February 11, 2009 session by **Thursday, February 4, 2009.**

Amended Confidentiality Order

5. A copy of the amended confidentiality order is attached hereto. The amendment adds the words "and support staff personnel" to line 4.

Thank you very much for your anticipated cooperation.

Sincerely,

_S/ Lowell A. Reed, Jr.____ LOWELL A. REED. JR.

cc: The Honorable Eduardo C. Robreno

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

In Re: ASBESTOS PRODUCTS LIABILITY LITIGATION (No. VI) Civil Action No MDL 875

August 27, 2009 Mediation Rules of Judge Reed As Amended November 18, 2006

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Confidentiality of Mediation Proceedings

All documents produced, orders of the mediator and statements made at mediation and management conferences with the mediator as well as statements made and other documents issued to facilitate settlement shall be kept confidential and are not to be disclosed to any person or organization except consulting counsel, the parties, support staff personnel for the parties, expert consultants or other witnesses to be produced as part of mediation proceedings. Fed.Rule of Evidence 408 shall apply. Moreover, all parties, counsel, witnesses and support staff personnel for the parties herein are prohibited from entering, or submitting to another to enter, any confidential information described above, into or on the Internet, Worldwide Web or any website, blog, twitter, social network or similar location whether private or available to the public. The same described persons are all prohibited from granting interviews, submitting any press release or similar statement for general circulation or industry publication, as well as, tv and radio personnel or outlets. Rather all said persons will merely tell the inquirer that the matter is in mediation and is confidential at this time.

The foregoing rule is subject to change only upon order of the mediator or other legally authorized judicial officer or court.

Whether or not the final settlement of an individual case or claim, including supporting documents, will be kept confidential will be decided on a case-by-case basis upon application of the parties to the mediator.

_S/ Lowell A. Reed, Jr.____

LOWELL A. REED, JR., Sr. J. Senior U.S. District Judge Court Annexed Mediator