

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY  
**ASBESTOS LITIGATION**

**Docket No:** L-3793-15 (AS)

**Civil Action**

**CASE MANAGEMENT ORDER III**

DIANE KLEMM (Estate of David Klemm),  vs.  BORG WARNER CORP., et al	<i>Plaintiff(s),</i>     <i>Defendant(s).</i>
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This matter coming in for a Case Management Conference before Special Master Agatha N. Dzikiewicz and the following parties on June 12, 2017:

FIRM	ATTORNEY	CLIENT
Keefe Bartels	Jennifer Ruhl	Plaintiff(s)
Breuninger & Fellman	Raymond Chow	Genuine Parts Co.; National Auto Parts Assoc.; Quaker City Motor Parts
Caruso Smith	Alexandra Caruso	CertainTeed
Eckert Seamans	Stephanie Coleman	Navistar; CNH Industrial America LLC
Hardin Kundla	Cynthia Lee	Deere & Co.
Landman Corsi	Jorkeell Echeverria	Lincoln Electric Co.
LeClair Ryan	Adam Husik	Ford
McElroy Deutsch	Brian Sorenson	Rockwell; Eaton
Morgan Lewis	Patrick Elkins	Gould Pumps, ITT
O'Toole Fernandez	Max S. Sverdlove	Dana
Pascarella DiVita	Joshua Greeley	Ingersoll Rand; Trane US; Crane Co.
Reilly Janiczek	Zachary Green	New Holland North America, Inc.; incorrectly sued as CNH Industrial America f/k/a New Holland North America, Inc.
Tanenbaum Keale	Afigo Fadahunsi	Borg Warner

IT IS on this 15<sup>th</sup> day of June, 2017, effective from the conference date;

ORDERED as follows:

Counsel receiving this Order through computerized electronic medium (E-Mail) shall be deemed by the court to have received a copy of the filed original court document. Any document served pursuant to this Order shall be deemed to be served by mail pursuant to R.1:5-2.

**DISCOVERY**

June 30, 2017            Plaintiff shall serve answers to standard interrogatories, provide the information required by paragraph VII.B.1.a. of the General Order, and shall advise defendants whether the plaintiff is available for deposition and, if not, the reasons therefore by this date.

June 30, 2017            Plaintiff shall serve answers to wrongful death interrogatories by this date.

July 14, 2017 Defendants shall serve answers to standard interrogatories by this date.

July 28, 2017 Plaintiff shall propound supplemental interrogatories and document requests by this date.

August 31, 2017 Defendants shall serve answers to supplemental interrogatories and document requests by this date.

July 28, 2017 Defendants shall propound supplemental interrogatories and document requests by this date.

August 31, 2017 Plaintiff shall serve answers to supplemental interrogatories and document requests by this date.

October 6, 2017 Fact discovery, including depositions, shall be completed by this date. Plaintiff's counsel shall contact the Special Master within one week of this deadline if all fact discovery is not completed.

November 3, 2017 Depositions of corporate representatives shall be completed by this date.

### **EARLY SETTLEMENT**

October 13, 2017 Settlement demands shall be served on all counsel and the Special Master by this date.

### **SUMMARY JUDGMENT MOTION PRACTICE**

December 8, 2017 Plaintiff's counsel shall advise, in writing, of intent not to oppose motions by this date.

January 5, 2018 Summary judgment motions shall be filed no later than this date.

February 2, 2018 Last return date for summary judgment motions.

### **MEDICAL DEFENSE**

September 29, 2017 Plaintiff shall serve medical expert reports by this date.

September 29, 2017 Plaintiff is to arrange for the transfer of pathology specimens and x-rays, if any, by this date.

April 30, 2018 Defendants shall identify its medical experts and serve medical reports, if any, by this date. **In addition, defendants shall notify plaintiff's counsel (as well as all counsel of record) of a joinder in an expert medical defense by this date.**

### **LIABILITY EXPERT REPORTS**

March 2, 2018 Plaintiff shall identify its liability experts and serve liability expert reports or a certified expert statement by this date or waive any opportunity to rely on liability expert testimony.

April 30, 2018 Defendants shall identify its liability experts and serve liability expert reports, if any, by this date or waive any opportunity to rely on liability expert testimony.

### **ECONOMIST EXPERT REPORTS**

September 29, 2017 Plaintiff shall identify its expert economists and serve expert economist report(s), if any, by this date or waive any opportunity to rely on economic expert testimony.

April 30, 2018 Defendants shall identify its expert economists and serve expert economist report(s), if any, by this date or waive any opportunity to rely on economic expert testimony.

**EXPERT DEPOSITIONS**

May 21, 2018 Expert depositions shall be completed by this date. To the extent that plaintiff and defendant generic experts have been deposed before, the parties seeking that deposition in this case must file an application before the Special Master and demonstrate the necessity for that deposition. To the extent possible, documents requested in a deposition notice directed to an expert shall be produced three days in advance of the expert deposition. The expert shall not be required to produce documents that are readily accessible in the public domain.

**PRE-TRIAL AND TRIAL**

August 16, 2017 The settlement conference previously scheduled on this date is **cancelled**.

November 13, 2017 @ 1:30pm Settlement conference. All defense counsel shall appear with authority to negotiate settlement and have a representative authorized to negotiate settlement available by phone. Any request to be excused from the settlement conference shall be made to the Special Master no later than 4:00pm of the day prior to the conference.

May 2, 2018 @ 10:00am Settlement conference. All defense counsel shall appear with authority to negotiate settlement and have a representative authorized to negotiate settlement available by phone. Any request to be excused from the settlement conference shall be made to the Special Master no later than 4:00pm of the day prior to the conference.

June 11, 2018 Trial Date. (*The September 25, 2017 trial is adjourned to this date.*)

***Plaintiff(s) counsel shall serve a copy of this Order upon any additional counsel immediately upon receipt.***

*/s/ Ana C. Viscomi*  
ANA C. VISCOMI, J.S.C.

cc: Clerk, Mass Tort