

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

**Docket No: L-10370-08 (AS)**

**Civil Action**

**CASE MANAGEMENT ORDER I**

HENRY W. LATTEr, SR. and HENRY LATTEr, JR.,

*Plaintiff(s),*

vs.

3M COMPANY, et al

*Defendant(s).*

This matter coming on for a Case Management Conference with Special Master, Agatha N. Dzikiewicz,

on March 16, 2009 and the following firms appearing:

Levy Phillips Konigsberg	G. Russell Ragland, Esq.	Plaintiff(s)
Breining & Fellman	Christine Nugent, Esq.	NAPA
Coughlin Duffy	George Kelman, Esq.	Advance Stores
Drinker Biddle	Mark Galdieri, Esq.	The Glidden Co. d/b/a ICI Paints
Gibbons	Stephen J. Finley Jr., Esq.	Honeywell
Gibbons	Robert Brown, Esq.	Sherwin Williams
Hardin Kundla	Ann Mader McKeon, Esq.	Chrysler
Hoagland Longo	Nora Grimbergen, Esq.	Borg Warner; Rockford
Lavin O'Neil	Sarina Kaplan, Esq.	General Motors; Ford Motor
Margolis Edelstein	Dawn Dezii, Esq.	Goodrich
Marks O'Neil	Paul Smyth, Esq.	Georgia Pacific
Marshall Dennehey	Nadira Kirkland, Esq.	Pep Boys; Kaiser Gypsum
McCarter & English	John Garde, Esq.	Emerson; Komatsu
McElroy Deutsch	Joseph Rasnek, Esq.	Eaton
McGivney Kluger	Joel Clark, Esq.	Robert Bosch; Dravo Corp.
O'Toole Fernandez	Gary Van Lieu, Esq.	Dana
Pehlivanian Braaten	Regina Distefano, Esq.	Ingersoll Rand
Picillo Caruso	Richard Kaluzinski, Esq.	Union Carbide; CertainTeed
Porzio Bromberg	Thomas Coffey, Esq.	DuPont
Segal McCambridge	David Kostus, Esq.	Clark Equipment
Sills Cummis	Vincent Lodato, Esq.	3M Co.
Smith Abbot	Mark Debrowski, Esq.	Pneumo Abex
Weiner Lesniak	Victoria Williams Donath, Esq.	Bondex
Wilbrham Lawler	Mary Cook, Esq.	Cummins Inc.

IT IS on this 26<sup>th</sup> day of March, 2009 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*.

Defense counsel shall notify plaintiffs' counsel within thirty (30) days of the date of this Order if their client was incorrectly named in the Complaint. Counsel may be barred from raising this defense at a later time for failure to comply.

### **DISCOVERY**

- |                |   |
|----------------|---|
| April 15, 2009 | Supplemental / amended answers to interrogatories identifying fact witnesses shall be served by this date.  |
| March 30, 2009 | Defendants shall serve answers to standard interrogatories by this date.  |
| April 15, 2009 | Defendants Komatsu, Emerson, Glidden, Weeks Marine, and Clark Equipment shall serve answers to standard interrogatories by this date.   |
| May 15, 2009   | Plaintiff shall propound supplemental interrogatories and document requests by this date.   |
| June 12, 2009  | Defendants shall serve answers to supplemental interrogatories and document requests by this date.  |
| April 15, 2009 | Defendants shall propound supplemental interrogatories and document requests by this date.  |
| May 22, 2009   | Plaintiff shall serve answers to supplemental interrogatories and document requests by this date.   |
| July 17, 2009  | 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. |

### **EARLY SETTLEMENT**

- |                          |   |
|--------------------------|---|
| July 17, 2009            | Settlement demands shall be served on all counsel and the Special Master by this date.  |
| August 7, 2009 @ 10:00am | Early 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. |

### **SUMMARY JUDGMENT MOTION PRACTICE**

July 31, 2009                      Summary judgment motions limited to product identification issues shall be filed no later than this date.

August 28, 2009                      Last return date for product identification summary judgment motions.

### **POST SUMMARY JUDGMENT SETTLEMENT CONFERENCE**

September 9, 2009 @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. *(Please note time change.)*

### **CASE MANAGEMENT CONFERENCE**

September 9, 2009 @1:30pm      Case Management Conference is scheduled before the Special Master. *(Please note time change.)*

### **MEDICAL DEFENSE**

April 10, 2009                      Plaintiff shall serve executed medical authorizations by this date.

May 1, 2009                              Any defendant wishing to present a medical defense shall advise all counsel of its intention by entering a Notice of Appearance of Defense Medical Counsel by this date. Any defendant who does not file such an appearance by this date may be foreclosed from asserting a medical defense.

May 15, 2009                      Plaintiff shall serve additional medical expert reports by this date.

July 17, 2009                      Defendants shall identify its medical experts and serve medical reports, if any, by this date.

### **LIABILITY EXPERT REPORTS**

August 14, 2009                      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.

September 18, 2009                      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.

October 16, 2009                      Plaintiff shall identify its rebuttal liability experts and serve rebuttal liability expert reports, if any, by this date.

**PRE-TRIAL AND TRIAL**

To be scheduled            Final settlement conference to be scheduled.

November 16, 2009      Trial Date.

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

*/s/ Ann G. McCormick*  
ANN G. McCORMICK, J.S.C.

cc:      Clerk, Mass Tort  
         Brody Deposition Services  
         Priority One