
THE DELACO COMPANY, INC.

v.

CENTURY INDEMNITY COMPANY, *et al.*

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

CIVIL ACTION

CASE CODE: To be announced.
CASE MANAGEMENT ORDER # 2

THIS MATTER having been opened on the court's own motion in furtherance of the Order of September 17, 2001 signed by Chief Justice Deborah Poritz for the Supreme Court of the State of New Jersey designating this Court to centralize all pending and future cases alleging injuries and/or other claims from ingestion of PPA; and

WHEREAS these cases involve numerous claims that may merit special attention as complex litigation, Track IV matters:

IT IS ON THIS 24th DAY OF December 2003, ORDERED:

I. Management Issues

1. All communications from the court shall be through the Mass Tort website: www.judiciary.state.nj.us/mass-tort/index.htm
2. The preferred method of communication from counsel to the court will be by e-mail, not by telephone. Send e-mail correspondence to Larry Lavender, Esq. at larry.lavender@judiciary.state.nj.us
3. The procedures for this litigation shall be consistent with the Manual for Complex Litigation, Fourth Edition, to the extent practicable. Counsel are expected to familiarize themselves with the Manual for Complex Litigation, and be prepared at the conferences to suggest procedures that will facilitate the just, speedy, and inexpensive resolution of this litigation.
4. This case is hereby designated as Track IV matters. The civil "Best Practices" system for Mass Tort Track IV is hereby relaxed in this litigation pursuant to New Jersey Court Rule R. 1:1-2.

5. All proceedings will be transcribed using Live Note. All Live Note transcriptions shall be provided to the court. The parties are directed to devise a means for allocating the cost and responsibility for ensuring such transcription. All court reporters provided must be skilled in Live Note and all versions of Live Note used by the parties must be compatible with this court. This court is entitled to an unrevised, as well as, revised and finalized versions of all Live Note transcripts to be provide no later than two (2) days after any proceeding.

II. Preliminary Issues

1. All proceedings in this litigation are stayed through January 14, 2004 unless specifically modified by subsequent order of this court.
2. Liaison counsel shall prepare a proposed Master Answer to be presented to the court on January 12, 2004.
3. **Liaison Counsel**—Liaison counsel shall: (1) communicate with the court and other counsel; (2) distribute notices, orders and other papers to all parties in the group as required; (3) convene meetings of counsel; (4) advise parties of developments in the case; (4) otherwise assist in the coordination of activities and positions; and (5) perform the duties of liaison counsel consistent with the Manual on Complex Litigation, Fourth Edition. Liaison counsel shall not have authority to bind their respective groups absent express authority granted by those groups.
4. Counsels who wish to be considered for the role of permanent liaison counsel in this litigation shall write to the court to apply for these positions. The court shall issue a final order designating permanent liaison counsel thereafter.
5. The following designations are established for case management purposes. This alignment is for efficient and effective management, communications, negotiations, and joint applications. Interim Liaison Counsel are as follows:

<u>Group</u>	<u>Liaison Counsel</u>
Plaintiff	Andrew T. Berry, Esq. McCarter & English
Defendants	Tancred V. Schiavoni, Esq. O'Melveny & Myers

6. Interim Liaison Counsel shall provide the court with an e-mail directory of all counsel of record of which they are aware in this litigation no later than January 12, 2004. This list must be updated on a rolling basis and provided to the law clerk via e-mail.
7. **List of Affiliated Companies and Counsel**—To assist the court in identifying any problems, recusal, or disqualification, counsel will submit to the court by

January 12, 2004 a list of all companies affiliated with the parties and all counsel associated in the litigation.

8. **List of Related Cases**—Counsel’s statement shall list all related cases pending in state and federal court and their current statutes, to the extent known.
9. **Committees**—The Technology Committee and Pleadings Committee are hereby established. Additional committees shall be established by the court as needed, or upon the request of the parties. The chair of any committee may be changed upon consent of the group represented. The respective party groups shall determine the members on the various Committees.
10. **Pleadings Committee**—The Pleadings Committee shall be co-chaired initially by liaison counsel.
11. All new pleadings past the date of this order shall be filed and venued in MIDDLESEX COUNTY and directed to the CIVIL DIVISION, MASS TORT SECTION, COUNTY COURTHOUSE, 1 John F. Kennedy Square, Tower Wing 2nd Floor, New Brunswick NJ, 08903. Hand deliveries of documents must be made to the 1 John F. Kennedy Square, Tower Wing 2nd Floor, New Brunswick, NJ, 4th Floor, Mass Tort Intake.
12. All court files including pleadings, motions, etc., shall be transferred from the original county of venue, packaged, and clearly marked TRANSMITTED FILE-PPA LITIGATION-The Honorable Marina Corodemus and forwarded to the Office of the Clerk, MIDDLESEX COUNTY, at the above address.
13. All motions pending in any county are hereby stayed until January 14, 2004 or until further order of this court.
14. The filings of all motions are stayed until January 14, 2004 or until further order of this Court.
15. Further, every pleading or motion paper once filed in Middlesex will thereafter include a docket number with the notation in bold type “MT” after the number for all Delaco v. Century Indemnity et al. litigation.
16. Copies of all pleadings, motions, etc. shall be given to the law clerk in electronic, computer readable format, specifically CD-ROM discs which are appropriately labeled with the following information and placement on label: (1) case name, Case Code, and type and number of pleadings or motions submitted; (2) Docket Number; (3) identity of the party submitting, attorney’s name, name of the firm, including address and phone number; and (4) specify number of CDs submitted (for example, “CD 1 of 2”), file format (PDF or Word document) and date of submission.

Delaco Co. v. Century Indemnity, et al.
Case Code
Defendant's Answer to Complaint
1 Brief

CD 1 of 1
Word Document
January 24, 2004

Docket No.

Identity of Party
Name of Attorney
Name of Firm
Address and Phone Number

17. All defense attorneys in receipt of process or retained by any defendant shall forth with notify this court in writing, and all plaintiff's counsel by letter as to the party represented and the name(s) of the case(s) involve in that representation.
18. All plaintiff and defense attorneys shall forth with notify this court in writing, as to any motions pending, including the names of the parties, docket number, nature of the motion, all counsel involved and return date.
19. **Technology Committee**—The Technology Committee shall be co-chaired by Gregory Horowitz, Esq. of McCarter & English for the plaintiff and Michael F. O'Neill, Esq. of Purcell, Ries, Shannon, & Mulcahy for the defendants.
20. The Technology Committee shall confer with all counsel and report to the court no later than January 12, 2004 regarding "Verilaw" or an equivalent website service for use in this litigation.
21. **MDL Coordination**—It is anticipated that the New Jersey PPA litigation, consistent with this court's mediation, trial plan and trial schedule, shall coordinate, to the extent possible, with the Multi-District Litigation in the United States District Court for the District of Washington, Case No. MDL 1407, and other coordinated proceedings in other state courts.

III. Interim Measures

1. Interim liaison counsel for Multi-District Litigation (“MDL”) coordination shall be Jeffrey S. Lichtman, Esq. of Skadden, Arps, Slate, Meagher & Flom for the plaintiff and Jennifer M. Lippitt, Esq. of Tressler, Soderstrom, Maloney & Priess for the defendants.
2. **Admission of Counsel**—Attorneys must be admitted to practice and in good standing in the State of New Jersey as governed by New Jersey Court Rule R. 1:21-2; those not admitted *pro hac vice* in this litigation may not participate. Therefore, parties should apply on or before January 23, 2004.

Please refer to the New Jersey Judiciary Mass Tort Info Center website at <http://www.judiciary.state.nj.us/mass-tort/prohacvi.pdf> for the requirements for *pro hac vice* admission and http://www.judiciary.state.nj.us/mass-tort/forms/ppa_prohac_022502.pdf for the application.

3. **Pending and New Discovery**—Pending the conference, all outstanding disclosure and discovery proceedings are stayed and no further discovery shall be initiated. This order does not (1) preclude voluntary informal discovery regarding the identification and location of relevant documents and witnesses; (2) preclude parties from stipulating to the conduct of a deposition that has already been scheduled; (3) prevent a party from voluntarily making disclosure, responding to an outstanding discovery request or (4) authorize a party to suspend its efforts in gathering information needed to respond to a request. Relief from this stay may be granted for good cause shown, such as the ill health of a proposed deponent.
4. **Preservation of Records**—Each party shall preserve all documents and other records containing information potentially relevant to the subject matter of this litigation. Each party shall also preserve any physical evidence or potential evidence and shall not conduct any testing that alters the physical evidence without notifying opposing counsel and, unless counsel stipulate to the test, without obtaining the court’s permission to conduct the test. Subject to further order of the court, parties may continue routine erasures of computerized data pursuant to existing programs, but they shall (1) immediately notify opposing counsel about such programs and (2) preserve any printouts of such data. Request for relief from this directive will receive prompt attention from the court.
5. **Motion**—No motion shall be filed without leave of court unless it includes a certificate that the movant has conferred with opposing counsel in a good faith effort to resolve the matter without court action, until a further order is issued by this court on January 14, 2004.
6. Orders of Transferor Courts imposing dates for pleadings or discovery are vacated.

7. Next Conference: All counsel shall appear for a status conference with the court at 10:00 AM on Wednesday, 14th day of January 2004, Courtroom #401, Middlesex County Courthouse, New Brunswick, New Jersey.
 - i. Attendance—To minimize costs and facilitate a manageable conference, parties are not required to attend the conference, and parties with similar interests are expected to agree to the extent practicable on a single attorney to act on their joint behalf at the conference, be precluded from other representation during the litigation; and attendance at the conference will not waive objections to jurisdictions, venue or service. Attendance with video conferencing to be arranged with the Technology Committee.
 - ii. Other Participants—Persons who are not named as parties in this litigation may later be joined as parties or are parties in related litigation pending in other federal and state courts are invited to attend in person or by counsel.
8. All attorneys are directed to monitor all further notices in this matter on the Mass Tort Info Center web page located at www.judiciary.state.nj.us/mass-tort/index.htm



Hon. Marina Corodemus, J.S.C.
Supervising Judge, Mass Tort