MARSHA DOOLITTLE Plaintiff, v. R. J. REYNOLDS TOBACCO COMPANY, et al. Defendants.	**SUPERIOR COURT OF NEW JERSEY** **LAW DIVISION** **MIDDLESEX COUNTY** **DOCKET NO. L-5771-00 MT** **CIVIL ACTION** **TOBACCO LITIGATION** **Case Code 241**

ORDER

THIS MATTER having been conferenced before Standing Master Joyce Usiskin on Wednesday, January 17, 2001, all counsel listed on Exhibit "A" appearing;

IT IS on this _____ day of January 2001

ORDERED that:

1. All provisions of Case Management Recommendation #1 (CMR #1) dated April 10, 2000 In Re Tobacco Litigation are incorporated herein and remain in full force and effect.

2. The deposition of plaintiff currently scheduled for February shall be held as soon as practicable. Counsel shall make every effort to secure the services of a certified lip reader by calling the Administrative Office of the Courts, Robert Joe Lee (609) 984-5024.

3. Plaintiff's answers to tobacco defendant's interrogatories shall be served by January 26, 2001

4. Within the next 90 days (ninety days) or by April 20, 2001, all discovery on the issue of product identification shall be completed. Any group of parties (i.e. tobacco defendants, chemical defendants, plaintiff, defendant employer) to this litigation may serve interrogatories, seek document production and/or depose witnesses on the product identification issue. The tobacco defendants must confer and serve their discovery requests jointly. The chemical defendants must confer and serve their discovery requests jointly. Therefore, no party shall have more than three sets of interrogatories and document production to answer.

5. No set of interrogatories shall consist of more than twenty five questions with no more than three subparts for each question.

6. Document Production shall consist of no more than ten requests in addition to the interrogatories. Applications for additional questions will be considered by the Standing Master for

good cause.

7. The parties have agreed to a so-called "bright-line" test to be used for dismissal of manufacturer or distributor defendants after the April 20, 2001 deadline. The objective has been to develop a test that will be relatively easy to apply in good faith by plaintiff's and defendants' counsel. Since this process does not preclude a motion for summary judgment pursuant to R.4:46 on these issues at the conclusion of merits discovery, only clear-cut situations should result in dismissal of particular defendants at this time.

8. At the close of product identification discovery or at any appropriate time prior thereto, the parties shall confer in good faith to discuss the partial or full dismissal of any defendant from this lawsuit who was inappropriately joined. The parties shall decide whether, based on the evidence the plaintiff was exposed to the chemicals manufactured or distributed by a particular defendant during her employment at the defendant dry cleaning establishment. If such evidence does not exist, the plaintiff and all co-defendants with cross claims against said manufacturer or distributor shall agree to the voluntary dismissal of said defendant subject to the following condition: if for a period of one year following dismissal or ninety (90) days after the completion of merits discovery, whichever occurs later, evidence of such use or exposure to defendant's product which reasonably could have caused harm to plaintiff is developed and which was not reasonably known by or disclosed previously to plaintiff, the dismissed defendant will agree voluntarily to return to the action by stipulation without asserting the statute of limitations as a defense assuming that the initial filing was timely. If after one year following the dismissal of a defendant on product identification grounds or ninety (90) days after completion of merits discovery, whichever is later, a dismissed defendant who has not been requested to return to the record of this case, upon request and notice to the plaintiff and defendant cross-claimants, the Court may enter an Order dismissing the defendant with prejudice.

9. If counsel agree on a dismissal of a defendant, an appropriate form of order shall be prepared and submitted to the Court containing language consistent with the form of stipulation and order attached hereto (Exhibit "B"). If counsel agree that no dismissal is appropriate, no further action shall be required. If the parties do not agree, any chemical defendant may file a motion before the Standing Master no later than thirty (30) days after the plaintiff/cross claimants' denial of the defendant's request for dismissal from the action.

10. The Standing Master shall review such motion and shall make a written recommendation to the parties and the Court.

11. If a party does not agree with the Standing Master's recommendation, that party may appeal the recommendation to the Court in accordance with the terms of CMR #1 and the Rules of the Courts of New Jersey.

12. The "bright-line" test enumerated above will not preclude the later filing of a motion to dismiss or for summary judgment premised on product identification after the close of product identification discovery.

13. All prior schedules for merit discovery and expert witness discovery shall be suspended until the next case conference in this matter which shall be held on **Tuesday, May 1, 2001 at 10:00 a.m.** in the Office of the Standing Master, Conference Room #2, Old Administration Building, 3rd Floor, New Brunswick, NJ.

BY THE COURT:

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HON. MARINA CORODEMUS