

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE:	)	ADMINISTRATIVE DOCKET
	)	
ASBESTOS CASES	)	NO. 332 OF 2005
	)	(AMENDED 2008, 2010, and 2012)

CASE MANAGEMENT ORDER FOR
ASBESTOS CASES PLACED AT ISSUE BY THE PLAINTIFF

1. This Case Management Order does not apply to any case that the Court has designated as governed by the Case Management Order for Asbestos Cases Pending for Three Years or More That Have Not Been Placed at Issue. (See CMO at A.D. No. 202 of 2005 [Amended 2010])
2. A plaintiff may place at issue any asbestos case that is not governed by the Case Management Order for Asbestos Cases Pending for Three Years or More That Have Not Been Placed at Issue by filing with the Department of Court Records and by furnishing to the Clerk of the Asbestos Docket a praecipe to place the case at issue. The praecipe shall state whether the case is to be placed on the Expedited Docket or the Regular Docket. Counsel shall make all reasonable efforts to obtain original service upon all potential parties prior to filing the praecipe. The filing of a praecipe to place a case on the Expedited Docket shall be deemed to be a good faith certification by the moving party that all parties have, in fact, been served and that the case can be adequately prepared and ultimately made ready for trial consistent with the deadlines established by this Case Management Order. In the event that a case is praeciped to be placed on the Expedited Docket before a party is served, or if a defendant or defendants are subsequently added

by plaintiff, the court will entertain a motion to strike the praecipe or a motion to change the deemed filing date.

3. If the case is to be placed on the Regular Docket, it will be governed by the Case Management Order for Asbestos Cases Pending for Three Years or More That Have Not Been Placed at Issue. For those cases that are to be placed on the Regular Docket, the Clerk of the Asbestos Docket, upon receipt of the praecipe, shall advise all counsel of the date by which a Plaintiff Information Sheet must be filed with the Department of Court Records in each case (which date shall be at least sixty (60) days after the filing of the praecipe).
4. The remaining paragraphs of this Case Management Order govern cases in which the praecipe to place the case at issue states that the case is to be placed on the Expedited Docket.
5. A plaintiff shall not file a praecipe to place a case on the Expedited Docket unless the plaintiff has completed and furnished to the defendants responses to the Standard Interrogatories. Responses to discovery, including answers to Standard Interrogatories, must comply with the rules of discovery; accordingly, an appropriate response will either answer the Standard Interrogatories fully and fairly or it will interpose an appropriate objection.
6. The praecipe to place a case on the Expedited Docket shall state an actual filing date (which shall be the actual date that the praecipe is filed with the Department of Court Records), and shall further reference a "Deemed Filing Date," as described immediately below. The Deemed Filing Date shall be that date, of the five dates set forth below, that

most closely follows the actual filing date. Deemed Filing Dates are: February 1, April 1, June 1, August 1, and November 1.

NOTE: All deadlines mandated by this CMO shall be determined by reference to that column of the chart found at Appendix A to this Order that correlates with the Deemed Filing Date for the case. Any Motion for Continuance or Extension of Time for compliance with any deadline, including Motions to challenge "expedited" treatment of a case, shall be framed as a request to change the Deemed Filing Date and shall, at a minimum, clearly set forth the current Deemed Filing Date and the requested Deemed Filing Date.

7. A Plaintiff Information Sheet in the form prescribed by Attachment 1 to this Order must be filed with the praecipe to place the case on the Expedited Docket. Amended or supplemental Plaintiff Information Sheets may be filed only with leave of court and upon good cause shown. Any defendant not named as a party in the Plaintiff Information Sheet may immediately serve upon plaintiff a 10-day notice of intent to praecipe to dismiss as to that defendant. If the omission was an oversight by plaintiff's counsel, plaintiff's counsel must file an objection to the praecipe to dismiss, supported by adequate, good faith, prima facie allegations that defendant is properly in the case within ten (10) days. If no objection is filed, defendant may file with the Department of Court Records (with a copy furnished to the Clerk of the Asbestos Docket) a praecipe to dismiss the case as to that defendant. Upon the filing of the praecipe, the Department of Court Records shall enter a judgment dismissing the case as to the defendant who filed the praecipe. The Department of Court Records shall not enter a judgment dismissing the case if the

plaintiff has filed an objection to the filing of the praecipe prior to the dismissal of the case.

8. Plaintiff shall immediately serve copies of the praecipe to place the case on the Expedited Docket (which copies shall include the actual filing date and "Deemed Filing Date") and the Plaintiff Information Sheet upon all other parties (i) pursuant to Pa.R.C.P. No. 440, (ii) through a posting on the extranet site maintained by plaintiff's counsel, or (iii) by e-mail to each attorney appearing on the Asbestos Counsel E-Mail List maintained by the Clerk of the Asbestos Docket.
9. Defendants shall designate lead counsel by the deadline for Designation of Lead Counsel applicable to the case's Deemed Filing Date as set forth in Appendix A and shall promptly notify plaintiff's counsel and the Clerk of the Asbestos Docket of the designation.
10. Plaintiff's discovery shall be completed by the deadline for Plaintiffs Discovery Completion applicable to the case's Deemed Filing Date as set forth in Appendix A. Any party initiating discovery must do so within such time as to permit the responding party the full time allowed for response by the Rules of Civil Procedure so that the response may be served on or before the date set for completion of discovery.
11. Plaintiffs shall file a list of all fact witnesses by the deadline for Plaintiffs Fact Witness List applicable to the case's Deemed Filing Date as set forth in Appendix A. Defendants shall file a list of all fact witnesses by the deadline for Defendant's Fact Witness List applicable to the case's Deemed Filing Date as set forth in Appendix A. New fact witnesses may be added after the above deadlines only by leave of court upon good cause shown. Persons who are not on the list of fact witnesses may not testify at trial unless compelling circumstances are shown.

For each fact witness on a party's list, the party shall (1) identify each defendant and/or product to which that the witness's testimony will relate and (2) disclose all prior depositions of the witness taken in other proceedings and all affidavits of the witness submitted in other proceedings if in the possession, custody, or control of the party or the party's counsel.

12. Defendants must file their motions for summary judgment as to product identification based on Pa.R.C.P. No. 1035.2(2) by the deadline for Defendant's Product Identification Motions for Summary Judgment applicable to the case's Deemed Filing Date as set forth in Appendix A. Any summary judgment motion that is not timely filed will not be considered without leave of court upon a showing of compelling circumstances. Plaintiff must file a response to any Defendant's Product Identification Motion for Summary Judgment by the deadline for Plaintiffs Response to Product Identification Motion for Summary Judgment applicable to the case's Deemed Filing Date as set forth in Appendix A. Responses may not be supplemented as to product identification, after the applicable deadline, in the absence of compelling circumstances.
13. If the plaintiff has not identified evidence in the record establishing product identification as to a particular defendant or asserted that a particular defendant has failed to respond to outstanding discovery by the applicable deadline for Plaintiff's Response to Product Identification Motion for Summary Judgment, such a defendant may immediately serve upon plaintiff a 10-day notice of intent to praecipe to dismiss as to that defendant. If the failure to identify evidence in the record was an oversight by plaintiff's counsel, plaintiff's counsel must file an objection to the praecipe to dismiss, supported by adequate reference to prima facie evidence of record supporting plaintiff's claims against

that defendant within ten (10) days. If no objection is filed, that defendant may file with the Department of Court Records (with a copy furnished to the Clerk of the Asbestos Docket) a praecipe to dismiss the case as to that defendant. Upon the filing of the praecipe, the Department of Court Records shall enter a judgment dismissing the case as to the defendant who filed the praecipe. The Department of Court Records shall not enter a judgment dismissing the case if the plaintiff has filed an objection to the filing of the praecipe prior to the dismissal of the case.

14. Plaintiffs shall file expert reports of any person whom plaintiff may call as an expert witness by the deadline for Plaintiffs Expert Report applicable to the case's Deemed Filing Date as set forth in Appendix A.
15. Defendants' discovery shall be completed by the deadline for Defendant's Discovery Completion applicable to the case's Deemed Filing Date as set forth in Appendix A. Any party initiating discovery must do so within such time as to permit the responding party the full time allowed for response by the Rules of Civil Procedure so that the response may be served on or before the date set for completion of discovery.
16. Defendants must file their motions for summary judgment as to any issue other than product identification by the deadline for Defendant's Non-Product Identification Motions for Summary Judgment applicable to the case's Deemed Filing Date as set forth in Appendix A. Any summary judgment motion that is not timely filed will not be considered without leave of court upon a showing of compelling circumstances.
17. Plaintiff must file a response to any Defendant's Non-Product Identification Motion for Summary Judgment by the deadline for Plaintiffs Response to Non-Product Identification Motion for Summary Judgment applicable to the case's Deemed Filing Date as set forth

in Appendix A. Responses may not be supplemented as to non-product identification in the absence of compelling circumstances.

18. If plaintiff has not filed a timely response to a defendant's motion for summary judgment filed pursuant to paragraph 17 of this Order, this defendant may file a praecipe with the Clerk of the Asbestos Docket asking to have the motion for summary judgment granted. The praecipe must certify that notice of the intent to present the praecipe was served upon plaintiff's counsel at least ten (10) days prior to the filing of such a praecipe with the Clerk of the Asbestos Docket or presentation of such praecipe to the Court.
19. The Court will endeavor to schedule argument on outstanding summary judgment motions on the next appropriate Asbestos Argument List after the applicable deadline for the Plaintiffs Response to such Motion for Summary Judgment.
20. Plaintiff shall file a pretrial statement by the deadline for Plaintiffs Pre-Trial Statement applicable to the case's Deemed Filing Date as set forth in Appendix A. Defendants shall file a pre-trial statement, including expert reports, by the deadline for Defendant's Pre-Trial Statement applicable to the case's Deemed Filing Date as set forth in Appendix A.
21. Non-summary judgment motions will be heard on dates scheduled and/or published by the court or the asbestos clerk as asbestos general motions argument dates. Motions may be presented to the court on such dates upon five days notice to all parties. A notice of presentation evidencing such notice shall be attached to any motion presented to the court. Motions shall include an express certification that the parties and/or counsel have made all reasonable efforts to resolve their dispute prior to the filing of the motion.
22. Plaintiffs counsel shall make a settlement demand to each defendant no later than fourteen (14) days after receipt of defendant's expert reports.

23. Agreements of counsel to set aside the time limitations and deadlines set forth herein are not binding upon the court.
24. Any party may at any time, move the Court to change the Deemed Filing Date in any case. Such requests will be entertained by the Court based upon failure to obtain original service upon a party and/or failure, intended or otherwise, to expeditiously conduct and respond to discovery or otherwise efficiently and fairly move towards trial. Such motions and responses thereto shall set forth and address the progress of the course of discovery and other case management activities to date. Additionally, such motions and responses thereto should specifically identify what Deemed Filing Date is being requested.
25. This Order amends the Case Management Order filed on Jun 22, 2010, at No. 332 of 2005 (Amended 2008 and 2010) and applies to all cases with a deemed filing date of 11/1/2012 or later.

Dated September 18, 2012

BY THE COURT:

APPENDIX A

Deemed Filing Dates	2/1	4/1	6/1	8/1	11/1
<i>ACTIVITY</i>	<i>DEADLINE</i>				
Designation of Lead Counsel	2/15	4/15	6/15	8/15	11/15
Plaintiffs Fact Witness List	3/1	5/1	7/1	9/1	12/1
Defendant's Product Identification Motion for Summary Judgment	3/15	5/15	7/15	9/15	1/15
Plaintiffs Response to Product Identification Motion for Summary Judgment	4/15	6/15	8/15	10/15	2/15
Defendants' Fact Witness List	5/1	7/1	9/1	11/1	3/1
Discovery Completion; Plaintiffs' Production of Pathology & Imaging Material	6/1	8/1	10/1	12/1	4/1
Plaintiffs Non-Medical Expert Reports	7/1	9/1	11/1	1/1	5/1
Plaintiffs Medical Expert Report	8/1	10/1	12/1	2/1	6/1
Defendant's Non-Product Identification Motion for Summary Judgment	9/1	11/1	1/1	3/1	7/1
Plaintiffs Response to Non-Product Identification Motion for Summary Judgment	9/15	11/15	1/15	3/15	7/15
Plaintiffs Pre-Trial Statement	10/1	12/1	2/1	4/1	8/1
Defendant's Pre-Trial Statement	10/15	12/15	2/15	4/15	8/15
"Likely" Trial Term	Nov.	Jan.	Mar.	May	Sept.

Deadlines are in the year of, or in the year immediately following, the Deemed Filing Date.