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OCT 3 2008

IN RE: BERYLLIUM LITIGATION

J. STEWART

NOVEMBER TERM 2003

No. 0002

In Re: Beryllium Litigation-ORDER



03110000200116

CASE MANAGEMENT ORDER NO. 13 - MEDIATION OF STITZEL

AND NOW, on this 3<sup>rd</sup> day of October, 2008, it is hereby **ORDERED** and **DECREED** that the following activities shall be completed by counsel for all parties, and periodic reports shall be submitted to this Court, so that it may be kept apprised of all relevant developments in Stitzel v. NGK North America, et al., 0609000050:

1. Within 30 days, the parties shall select a private mediator or mediators to conduct non-binding mediation, in accordance with the confidentiality provisions of Pennsylvania law (42 Pa.C.S.A Section 5949). The mediation shall be held in the case of Stitzel v. NGK North America, et al., 0609000050.

2. The parties shall establish precise procedures to be followed at the mediation; however, it is hereby required that individual plaintiffs as well as representatives or counsel on behalf of each defendant and if there is applicable insurance, a representative of each insurer shall attend in person and participate in good faith at all mediation sessions. Further, said attending representatives and insurer representatives shall have sufficient settlement authority to achieve settlement in each case agreed upon for mediation; the Court specifically notes that merely having a representative with settlement authority available by telephone, is not acceptable.

3. A non-binding mediation of Stitzel v. NGK North America, et al., 0609000050 shall be completed within 90 days; a report shall be made by liaison counsel to this Court no later than one week following the conclusion of the mediation to advise the Court only whether or not the mediation resulted in a settlement.

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OCT 3 2008

FIRST JUDICIAL DISTRICT OF PA  
USER I.D.: JS

4. Should counsel or the parties to this litigation and/or their aforesaid representatives refuse to comply with the requirements set forth herein and the procedures to be established, a motion may be made to the Court for a Rule to Show Cause why sanctions should not be imposed against those failing to comply.

5. The presence of any party representative in Pennsylvania for purposes of mediation shall not be used against such party for purposes of service of process or personal jurisdiction issues, and no attempt to serve process on such party in this or any other case in which such party is named shall be made by any of the parties or their counsel.

With respect to all other deadlines for Stitzel v. NGK North America, et al., 0609000050, set forth in Case Management Order No. 11, those deadlines are amended for purposes of this action as follows:

1. Depositions of experts designated by plaintiffs for trial in the above-referenced case shall be permitted and plaintiffs shall provide dates to defendants for the expert depositions of their experts within 7 days of the date of this Order. Depositions of plaintiffs' experts as set forth in this paragraph shall occur and be completed no later than December 12, 2008. The parties shall agree upon a manner for sharing fees and expenses of each expert for purposes of deposition.

2. Dispositive motions shall be filed by the parties in the above-referenced case on or before January 12, 2009. Any response to a dispositive motion shall be filed and served within 21 days after the motion is filed. Any reply to a response shall be filed and served within 10 days after the response is filed.

3. Frye motions as to any experts designated by plaintiffs shall be filed by the defendants on or before January 19, 2009. Any response to a Frye motion shall be filed and

served by plaintiffs within 20 days after the motion is filed. The Court shall thereafter establish a date for Frye hearings and witness testimony as the Court determines necessary.

4. Defendants shall produce and serve reports of experts anticipated to be called at trial upon plaintiffs on or before February 20, 2009.

5. Frye motions as to any experts designated by defendants shall be filed by plaintiffs on or before March 2, 2009. Any response to a Frye motion shall be filed and served by defendants within 20 days after the motion is filed. The Court shall thereafter establish a date for Frye hearings and witness testimony as the Court determines necessary.

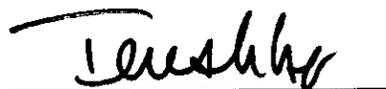
6. A final pre-trial conference shall be held in the above-referenced cases no sooner than February 23, 2009 and thereafter shall be assigned to trial at the direction of the Court.

7. Pre-Trial Memoranda, which include points for charge, specific identification of deposition testimony that the party intends to offer into evidence pursuant to Pennsylvania Rule of Civil Procedure 4020, and designation of all exhibits and witnesses for trial shall be filed and served as directed by the assigned trial judge.

8. Motions *in limine* shall be filed by the parties on or before the day on which jury selection occurs in a specific case.

9. Nothing contained herein shall be construed as directing the order or manner in which trial shall be conducted in the above-referenced cases, a matter to be considered by the parties and the Court at a regularly scheduled case management conference or upon application by any party hereto or otherwise upon direction of the Court.

**BY THE COURT:**



TERESHKO, J.

Dated: \_\_\_\_\_  
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