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March 26, 2008

**IN RE: ASBESTOS LITIGATION (OCTOBER TERM  
1986, NO. 0001); ALL ASBESTOS  
FRICTION CASES INVOLVING CHRYSLER LLC**

**GLOBAL MOTION TO STAY FRICTION  
ACTIONS AGAINST CHRYSLER PENDING RESOLUTION OF  
CHRYSLER LLC'S CONSOLIDATED FRYE MOTION**

**RESPONSE DATE:** April 7, 2008  
**OPPOSING COUNSEL:** Baron & Budd, PC  
Brookman, Rosenberg, Brown & Sandler  
Howard, Brenner & Nass, P.C.  
Paul, Reich & Myers, P.C.  
Law Offices of Peter G. Angelos, P.C.  
Kline & Specter, P.C.  
Brent Coon & Associates

Asbestos Litigation Phila. Ccp Vs A.C.&S. I-MTSPR



86100000100313

**CONTROL NO.** \_\_\_\_\_

Honorable Allan Tereshko  
Philadelphia County Court of Common Pleas  
City Hall, Room 622  
Philadelphia, Pennsylvania 19107  
Attn: Donna Candelora, Esquire

Handwritten notes: 2/23/08, 3/26/08, 3:28 PM

*In Re: Asbestos Litigation*  
Philadelphia Court of Common Pleas  
October Term 1986, No. 0001

Dear Judge Tereshko:

Chrysler LLC (f/k/a DaimlerChrysler Company LLC, f/k/a DaimlerChrysler Corporation) ("Chrysler") hereby moves this Honorable Court to stay all friction actions in which Chrysler is or will be a defendant, pending Your Honor's final Order on Chrysler's Consolidated Frye Motion.

4258465

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## **I. INTRODUCTION**

As Your Honor knows, Chrysler filed its aforementioned Consolidated Frye Motion in a number of individual cases listed for trial in 2008 on August 17, 2007. Chrysler additionally filed that Motion under the In Re: Asbestos Litigation docket (October Term, 1986, No. 0001), as well as on the dockets of each individual action. A hearing concerning Chrysler's Consolidated Frye Motion took place February 11-15, 2008, and the parties filed closing memoranda on March 18, 2008.

This motion is directed to Your Honor as the coordinating judge consistent with Philadelphia County asbestos practice. As with all consolidated Mass Tort rulings, this Court has jurisdiction to hear this matter.

## **II. RELIEF SOUGHT**

In each case filed in this county in which Chrysler is a defendant, plaintiffs filed suit alleging that they contracted asbestos-related diseases as a result of exposure to asbestos-containing products, including automotive friction products (i.e., brakes and clutches) manufactured and/or sold by Chrysler. By way of example, there are more than 35<sup>1</sup> cases involving allegations of exposure to Chrysler friction products remaining on the 2008 trial list, and many others which have not yet been placed on a trial list.

However, depending upon the Court's ruling, Chrysler's Consolidated Frye Motion could have a broad impact on all cases in which Chrysler is or will be a defendant.<sup>2</sup> Because the issues raised in Chrysler's pending Consolidated Frye Motion could fully resolve some plaintiffs' cases against Chrysler in this Court, it would be more efficient and cost-effective for all parties involved in these actions to stay all cases against Chrysler pending resolution of Chrysler's Consolidated Frye Motion.

## **III. STAYS ARE APPROPRIATE IN SUCH CIRCUMSTANCES**

A trial court has the inherent equitable power to stay proceedings pending determination of an issue, even an issue being decided in another case. Norristown Automobile Co., Inc. v. Hand, 562 A.2d 902, 904 (Pa. Super. 1989); 2 Standard Practice Pennsylvania 2d § 12:22. A Court may enter a stay in order to prevent a possible duplication of effort by the parties that

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<sup>1</sup> A chart of the 35 actions against Chrysler remaining on the 2008 trial list is attached hereto as Exhibit A and incorporated herein by reference. If the Court requires a list of all cases pending against Chrysler, Chrysler can prepare and provide such a list.

<sup>2</sup> For example, in the Allegheny County Court of Common Pleas, the Honorable Robert J. Colville's judgment granting the friction defendants' Frye Motion has thus far precluded asbestos plaintiffs from introducing causation expert testimony to demonstrate that a plaintiff's alleged asbestos-related disease was caused by a friction defendants' product. As a result, cases against Chrysler are not proceeding to trial in the Allegheny County Court of Common Pleas, pending the outcome of the appeal of Judge Colville's Frye Order.

The Honorable Allan Tereshko  
March 26, 2008  
Page 3

would place "an undue and wasteful burden" on the parties and the Court's resources. Hand, 562 A.2d at 904. This Court has already granted a stay in 12 cases based on the arguments presented in the Frye Motion (see, e.g., Order of Court dated February 20, 2008 staying Hairston, Brown, Brown, King, Tulowitski, Caswell, Duke, Sack, Shiel, Lewis, Fisher, and Joiner cases attached hereto as Exhibit B).

Plaintiffs generally contend that Chrysler's products are responsible for causing or contributing to the development of plaintiffs' asbestos-related diseases. However, Chrysler's Consolidated Frye Motion seeks a ruling that the causation opinions of Plaintiffs' experts are novel, and the methodology(ies) upon which those causation opinions are based are not generally accepted in the relevant scientific community. During the interim period while the Court considers its decision on this important issue, Chrysler, its co-defendants, and Plaintiffs' counsel will be required to expend significant time and resources in discovery, retention of expert witnesses, and preparation of cases for trial.

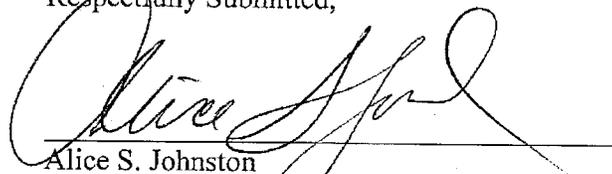
In the event Your Honor rules in Chrysler's favor and grants Chrysler's Frye Motion, Chrysler and the other parties (including Plaintiffs) may have wasted significant resources on cases that may not thereafter proceed against Chrysler. If, instead, the Court rules against Chrysler and denies the Frye motion, the stayed cases can easily be returned to a trial list and proceed in the normal course.

Staying these cases to allow time for the resolution of Chrysler's Consolidated Frye Motion will not prejudice any party. To the contrary, staying this action will simply prevent the parties from expending resources and time on matters which may be concluded as to a number of defendants following Your Honor's Consolidated Frye ruling.

#### IV. CONCLUSION

Based upon the foregoing, Chrysler respectfully requests that this Honorable Court stay all current and future friction actions against Chrysler pending Your Honor's ruling on Chrysler's Frye Motion.

Respectfully Submitted,



Alice S. Johnston  
Counsel for Chrysler LLC, f/k/a DaimlerChrysler  
Company LLC, f/k/a DaimlerChrysler Corporation

cc: All counsel of record

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*IN RE: ASBESTOS LITIGATION*

*October Term 1986, No. 0001*

ASBESTOS FRICTION CASES  
INVOLVING CHRYSLER LLC.

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: COURT OF COMMON PLEAS

: PHILADELPHIA COUNTY

: CIVIL ACTION -- ASBESTOS

**030890**

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, upon consideration of the Global Motion To Stay Friction Actions Pending Resolution of Chrysler LLC's Consolidated Frye Motion and any response thereto, it is hereby **ORDERED** and **DECREED** that the Motion is **GRANTED** and all actions involving automotive friction claims against Chrysler shall be **STAYED**, pending further Order of this Court.

BY THE COURT:

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The Honorable Allan Tereshko

EXHIBIT A  
 CASES AGAINST CHRYSLER ON THE 2008 TRIAL LIST

Plaintiff(s) Names	Trial Date	Trial Group	Docket Number	Plaintiffs Counsel	Disease Alleged
Renshaw, Kathleen, Administratrix of the Estate of Harry Renshaw, and Kathleen Renshaw in her own right	5/5/2008	2178	0511-1682	Brookman, Rosenberg, Brown & Sandler	Lung Cancer
Johnson, Milton	6/2/2008	2181	0603-3063	Howard, Brenner & Nass, P.C.	Lung Cancer
Pattie, Charlene, Administratrix of the Estate of William M. Pattie, Deceased, and Charlene Pattie, in her own right	6/2/2008	2181	0610-4637	Howard, Brenner & Nass, P.C.	Lung Cancer
Savidge, Vincent E., and Barbara Savidge, h/w	6/2/2008	2181	0612-0131	Howard, Brenner & Nass, P.C.	Lung Cancer
Todd, James A., and Veronica Todd, h/w	6/2/2008	2181	0609-2354	Howard, Brenner & Nass, P.C.	Lung Cancer
Ellinger, James H. and Katherine Ellinger, his wife	6/2/2008	2182	0605-1201	Paul, Reich & Myers, P.C.	Pleural Thickening /Asbestosis
Larkins, Richard T. and Frances Larkins, h/w	6/2/2008	2182	0606-1772	Paul, Reich & Myers, P.C.	Pleural Thickening
Terreforte, Carlos and Enilda Terreforte, h/w	6/2/2008	2182	0604-3657	Paul, Reich & Myers, P.C.	Pleural Thickening
Attili, Mary, Executrix of the Estate of David Schwartz and Mary Attili, in her own right	6/16/2008	2184 MID-MONTH	0510-3022	Brookman, Rosenberg, Brown & Sandler	Mesothelioma
Hering, Jr., Norman, Administrator of the Estate of Rita Mary Rooney	7/14/2008	2186	0608-1411	Howard, Brenner & Nass, P.C.	Mesothelioma
Grant, Robert, and Carolyn Grant, h/w	7/14/2008	2187	0611-2998	Howard, Brenner & Nass, P.C.	Esophageal Cancer
Hinkson, Barbara, Administratrix of the Estate of James H. Hinkson, deceased, and Widow in her own right	9/15/2008	2188	0612-0749	Paul, Reich & Myers, P.C.	Lung Cancer
Kane, Anna Marie, Executrix of the Estate of John F. Kane Jr., deceased, and widow in her own right	9/15/2008	2188	0612-0296	Paul, Reich & Myers, P.C.	Lung Cancer
Lasher, Arthur, and Lauretta Lasher, h/w	9/15/2008	2188	0704-2747	Paul, Reich & Myers, P.C.	Lung Cancer
Young, Barbara N.	9/15/2008	2188	0508-2690	Paul, Reich & Myers, P.C.	Pleural Thickening Lung Cancer
Bradshaw, John W. and Judith Bradshaw	9/15/2008	2189	0606-3421	Angelos, Peter G. P.C.	Asbestosis
Mathis, Clinton B.	9/15/2008	2189	0612-2386	Angelos, Peter G. P.C.	Asbestosis
Sarney, Rose Marie, and Raymond Stanley Sarney	9/15/2008	2190	0610-1139	Baron & Budd, PC	Mesothelioma

Plaintiff(s) Name(s)	Trial Date	Trial Group	Docket Number	Plaintiffs Counsel	Disease Alleged
Yost, John and Anna	9/15/2008	2190	0503-0391	Baron & Budd, PC	Mesothelioma
Iacovone, Anthony and Sharon	10/6/2008	2193	0601-3743	Brookman, Rosenberg, Brown & Sandler	Lung Cancer
Albert, Herman and Elaine Albert	10/6/2008	2195	0601-2360	Angelos, Peter G. P.C.	Mesothelioma
Romsper, George C., Executor for the Estate of Raymond Romsper	10/6/2008	2195	0603-4045	Angelos, Peter G. P.C.	Mesothelioma
Hoffman, Richard C. and Mary Alice Hoffman, h/w	10/20/2008	2194 MID-MONTH	0512-3737	Howard, Brenner & Nass, P.C.	Asbestosis
Jones, Gary and Patricia Jones, h/w	10/20/2008	2194 MID-MONTH	0605-3196	Howard, Brenner & Nass, P.C.	Pleural Thickening
Korab, Edward	10/20/2008	2194 MID-MONTH	0612-0323	Howard, Brenner & Nass, P.C.	Asbestosis
Morgan, Joann	10/20/2008	2194 MID-MONTH	0603-2483	Howard, Brenner & Nass, P.C.	Pleural Thickening Asbestosis
McCone, Maurice and Margaret McCone	11/3/2008	2197	0605-1363	Angelos, Peter G. P.C.	Lung Cancer
Tulish, Marion, Administratrix for the Estate of Frederick Tulish and in her own right	11/3/2008	2197	0603-1721	Angelos, Peter G. P.C.	Lung Cancer
Botte, Shirley, Personal Representative of the Estate of James P. Macauley, deceased	11/3/2008	2199A	0611-3250	Paul, Reich & Myers, P.C.	Lung Cancer
Gilbert, Marilyn, and Steven Gilbert, Co-Executors of the Estate of Alfred G. Gilbert, Deceased, and widow in her own right	11/3/2008	2199A	0508-3186	Paul, Reich & Myers, P.C.	Lung Cancer
Huggins, James E., Executor of the Estate of Sim F. Huggins	11/3/2008	2199A	0605-1667	Paul, Reich & Myers, P.C.	Asbestosis Lung Cancer
Kelly, Sandra, Executrix of the Estate of John F. Kelly, deceased, and widow in her own right	11/3/2008	2199A	0607-1415	Paul, Reich & Myers, P.C.	Lung Cancer
Loewen, Natalie, Administratrix of the Estate of Gregory Loewen, deceased, and widow in her own right	11/3/2008	2199A	0603-3453	Paul, Reich & Myers, P.C.	Lung Cancer
Smith, Joyce K, Executrix of the Estate of Robert H. Smith, deceased, and Widow in her own right	11/3/2008	2199A	0607-1416	Paul, Reich & Myers, P.C.	Lung Cancer
Fallon, James W., Executor of the Estate of Ruth F. Fallon, deceased, and widower in his own right	12/8/2008	2202	0609-2731	Paul, Reich & Myers, P.C.	Mesothelioma
Strunk, Amy M., Executrix of the Estate of Walter R. Strunk, deceased, and widow in her own right	12/8/2008	2202	0612-2939	Paul, Reich & Myers, P.C.	Mesothelioma
Young, Edith K., Executrix for the Estate of Charles E. Young, deceased, and widow in her own right	12/8/2008	2202	0609-0962	Paul, Reich & Myers, P.C.	Mesothelioma

IN THE COURT OF COMMON PLEAS  
OF PHILADELPHIA COUNTY  
CIVIL SECTION: TRIAL DIVISION

MICHAEL C. CASWELL COPIES SENT : SEP TERM, 2006  
PURSUANT TO Pa.R.C.P. 233(b):

FEB 28 2008 :

vs.

FIRST JUDICIAL DISTRICT OF PA  
USER I.D.:

No. 0609-0782

A.W. CHESTERTON, INC. ET AL. : ASBESTOS CASE

DOCKETED  
COMPLEX LIT CENTER

FEB 28 2008

J. STEWART

ORDER

AND NOW, to wit, this *28<sup>th</sup>* Day of *February*, 2008, the

following defendants are dismissed with prejudice and all claims  
and cross-claims are dismissed with prejudice:

A.W. CHESTERTON, INC.  
ADVANCE AUTO PARTS  
AMTICO  
AutoZone Stores, Inc.  
BF GOODRICH COMPANY  
BORG-WARNER CORPORATION  
BRIDGESTONE FIRESTONE CO.  
CERTAIN-TEED CORPORATION  
CHRYSLER LLC  
CLARK EQUIPMENT COMPANY  
DURABLA MANUFACTURING CO.  
EATON CORPORATION  
GARLOCK, INC.  
GENERAL ELECTRIC COMPANY  
GENERAL MOTORS CORPORATION  
GENERAL SIGNAL COMPANY d/b/a REVCO/LINDBERG  
GENUINE PARTS CO.  
GOODYEAR TIRE AND RUBBER CO.  
GREENE, TWEED & COMPANY  
GTE PRODUCTS OF CONNECTICUT CORPORATION  
HAJOCA CORPORATION  
HARNISCHFEGER CORP.  
HONEYWELL INTERNATIONAL  
INGERSOLL-RAND  
KELSEY-HAYES COMPANY  
LEAR SIEGLER DIVERSIFIED HOLDING CORPORATION  
MANUFACTURED RUBBER PRODUCTS COMPANY  
MELRATH GASKET, INC.



NAPA  
NEW YORK AIR BRAKE  
NOSROC CORPORATION  
OLD ORCHARD INDUSTRIAL  
OWENS-ILLINOIS, INC.  
PARS MANUFACTURING COMPANY  
PECORA CORPORATION  
PNEUMO ABEX LLC  
QUAKER CITY MOTOR PARTS  
RAILROAD FRICTION PRODUCTS CORPORATION  
REDDAWAY MANUFACTURING COMPANY, INC.  
ROCKBESTOS CO.  
SEPCO CORPORATION  
THYSSEN KRUPP BUDD  
UNION CARBIDE CORPORATION  
VIACOM (n/k/a CBS Corporation, a Delaware Corporation, f/k/  
Viacom, Inc.,  
WALTER B. GALLAGHER COMPANY

BY THE COURT:

Allan J. Tereshko.

**VERIFICATION**

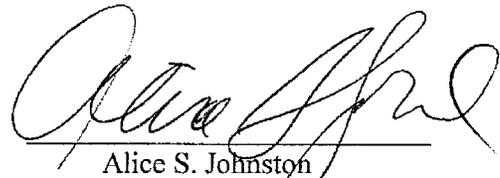
Alice S. Johnston, Esquire states that she is the attorney for the within named defendant, Chrysler LLC, that she is acquainted with the facts set forth in the foregoing motion; that the same are true and correct to the best of her knowledge or information and belief; and that this statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.



Alice S. Johnston

**CERTIFICATE OF SERVICE**

I certify that on March 26 2008, a true and correct copy of the Global Motion To Stay Friction Actions Against Chrysler Pending Resolution of Chrysler LLC's Consolidated Frye Motion was served on all counsel of record.



Alice S. Johnston



# OBERMAYER

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