

NOTICE TO THE ASBESTOS BAR

Please be advised that the Case Management Order for Asbestos-Related Personal Injury Claims and the Asbestos Summary Judgment Motion Procedures have been revised, effective **December 1, 2010**. The text of the revised Case Management Order will be placed on the docket for all newly filed individual cases in the Asbestos Program. Pursuant to the notice, counsel for plaintiff is directed to, *inter alia*, serve a copy of the notice on all counsel and unrepresented parties.

The text of the revised Case Management Order and Revised Asbestos Summary Judgment Motion Procedures are printed below and available online at <http://courts.phila.gov>.

Please direct all inquiries concerning this notice to the Complex Litigation Center at (215) 686-5100.

BY THE COURT:

*D. WEBSTER KEOGH
ADMINISTRATIVE JUDGE
TRIAL DIVISION*

*WILLIAM J. MANFREDI
SUPERVISING JUDGE
TRIAL DIVISION – CIVIL*

*SANDRA MAZER MOSS
COORDINATING JUDGE
COMPLEX LITIGATION CENTER*

A Short Form Complaint shall be filed and served in every case in accordance with the Pennsylvania Rules of Civil Procedure. Plaintiffs may incorporate by reference the Master Long Form Complaints filed on the above-captioned docket.

The Short Form Complaint shall contain the information required by Philadelphia Civil Rule *1019.1(B), to the extent consistent with the Pennsylvania Rules of Civil Procedure.

A Short Form Complaint that contains premises liability claims shall include the name and address of each work site in which the plaintiff alleges exposure to asbestos and the dates during which the plaintiff or the decedent worked at each such work site.

B. Preliminary Objections

In response to each Short Form Complaint, the defendant may file preliminary objections, if deemed appropriate, in accordance with the Pennsylvania Rules of Civil Procedure and Philadelphia Civil Rule *1028. The preliminary objections shall be filed in letter brief format rather than motion package format. Its caption must specify “Asbestos Litigation” and name opposing counsel. Facts, issues and pertinent case law should be included. Each motion must include a proposed order.

C. Answers to Complaints

Defendant’s answers to complaints are governed by Rule 1041.1 of the Pennsylvania Rules of Civil Procedure.

II. GIFFEAR DOCKET

Cases that do not state a valid claim pursuant to Giffear v. Johns-Manville Corp., 632 A.2d 880 (Pa.Super. 1993), aff’d sub nom. Simmons v. Pacor, Inc., 674 A.2d 232 (Pa.1996), shall be placed on an inactive docket.

To reactivate a case which has been discontinued pursuant to Giffear, a Motion to Reactivate must be filed and include all necessary medical reports supporting said motion.

The motion shall be filed in letter brief format consistent with the Mass Tort Motion procedures.

III. DISCOVERY

The following deadlines shall apply for the completion of discovery and the exchange of expert reports:

180 Days prior to jury selection—

Plaintiffs shall serve answers to Defendants' Master Interrogatories and Requests for Production Directed to Plaintiffs, including information relating to Bankruptcy Trust Filings.

Plaintiffs shall forward the identification of all health care providers along with addresses to defense counsel and RecordTrak.

Plaintiffs shall forward HIPAA compliant authorizations signed by plaintiffs to RecordTrak.

120 days prior to jury selection—

Plaintiffs shall serve medical, economic and liability expert reports.

Plaintiffs shall produce to lead defense counsel all diagnostic materials in the possession of plaintiffs or their counsel and all diagnostic material reviewed by plaintiffs' experts. This includes, but is not limited to, x-rays, CT scans, pathology and cytology.

Plaintiffs shall serve product identification witness lists identifying the defendants the witnesses are expected to identify.

100 days prior to jury selection-- Completion of plaintiffs' depositions.

90 days prior to jury selection-- Completion of all co-worker depositions.

45 days prior to jury selection-- Defendants shall serve medical and economic expert reports.

10 days prior to jury selection-- Defendants shall serve expert liability reports.

IV. STIPULATIONS OF DISMISSAL

1. If a plaintiff has agreed to stipulate to the dismissal of a defendant, the defendant (hereinafter the “Stipulated Defendant”) shall prepare a Stipulation of Dismissal.

2. The Stipulated Defendant shall circulate the Stipulation of Dismissal to all defense counsel by letter, stating that any party has ten (10) days from the date of the letter to object to the dismissal of the Stipulated Defendant.

3. If a party objects to the dismissal of the Stipulated Defendant, the objecting party shall notify the Stipulated Defendant in writing of the basis for the objection.

4. If, after the expiration of the ten (10) day period, no objections are received by the Stipulated Defendant, the Stipulation of Dismissal may be electronically filed with the Court as unopposed.

5. The package electronically filed with the Court shall include the signed Stipulation of Dismissal and a cover letter stating no objections have been raised within the ten (10) day period.

6. Service of the Court-approved Stipulation of Dismissal shall be effectuated via the Court’s electronic filing system on all parties of record.

V. MOTION PRACTICE AND PROCEDURE

All summary judgment motions shall be filed in accordance with the Revised Asbestos Summary Judgment Motion Procedures, a copy of which is attached hereto. In addition, to prevent the filing of unnecessary motions, five (5) days prior to the deadline for filing summary judgment motions (or 85 days prior to jury selection) Plaintiffs’ counsel are

to serve upon all parties to a case, a 'Dismissal Letter' indicating all defendants which Plaintiff will voluntarily dismiss from that case.

All other motions, including motions for *forum non conveniens*, motions to amend complaints, motions to compel, motions to enforce settlements, etc., shall be filed in accordance with the Revised Mass Tort Motion Procedures, a copy of which is attached hereto.

VI. TRIAL SCHEDULING

The dates for all scheduled trials will be published each Monday in *The Legal Intelligencer*.

VII. DEADLINES FOR CASES THAT MOVE TO NEW TRIAL GROUPS

If any case is moved, with the consent of the Court, from its original trial group to a later trial group, all discovery and motions deadlines for the later group will apply. Any summary judgment motions filed prior to moving the case will be considered moot and must be re-filed in accordance with the deadlines for the group to which the case has been moved, except for cases where the motion deadline for the new group has already passed at the time the case is moved. For those cases, motions will remain open and need not be re-filed. Those motions remaining open shall be decided by the Coordinating Judge in accordance with the deadlines for the new group.

VIII. CALL OF THE LIST

A brief call of the asbestos list will be conducted every Monday at 11:00 a.m. The Court will conduct general asbestos business and call those cases listed for trial for the

following month. Knowledgeable representatives of each party involved in the next month's scheduled trials shall attend.

A meeting of the Asbestos Kitchen Cabinet will be conducted on the first Monday of each month, following the call of the list.

IX. SANCTIONS

Failure to comply with any deadlines set forth in the Case Management Order may result in the imposition of appropriate sanctions, including dismissal.

BY THE COURT:

**SANDRA MAZER MOSS
COORDINATING JUDGE
COMPLEX LITIGATION CENTER**

REVISED ASBESTOS SUMMARY JUDGMENT MOTION PROCEDURES

Following is the Asbestos Summary Judgment Motion Procedure as revised on November 22, 2010. All prior asbestos summary judgment motion procedures are to be considered obsolete.

1. All summary judgment motions shall be electronically filed pursuant to Pa.R.C.P. 205.4 and Philadelphia Rule of Civil Procedure *205.4., eighty (80) days prior to jury selection.
2. All motions should be in letter-brief rather than motion package format. The first page of the motion shall include the caption, type of litigation (ie. Asbestos), name of opposing counsel, and the filing and response dates, prominently displayed. The second page of the motion shall be the proposed order. The third page of the motion shall include the title line ("Dear Judge") and begin the facts, issues and pertinent case law, briefly outlined. Each motion must also include a signed Attorney Certification of Good Faith and Certificate of Service.
3. The Certification of Good Faith shall attest that certifying counsel has spoken with opposing counsel regarding the summary judgment motion in an attempt to resolve the specific issue in dispute, and that despite counsel's good faith efforts, has been unable to do so.
4. For all motions, the moving party must serve opposing counsel and all interested parties with a copy of the motion on the day filed with the Court, by electronic mail, facsimile or hand delivery.* The moving party shall notify opposing counsel and all interested parties of the Motion Control Number upon notification by the Court.
5. Upon receipt, opposing counsel shall have seventeen (17) days in which to file a response to the motion. The response must be electronically filed no later than midnight (12:00 a.m.) of the due date and counsel must provide a courtesy copy of the response (and any exhibits) to the Coordinating Judge of the Complex Litigation Center, 622 City Hall. **THE RESPONSE MUST CLEARLY DISPLAY THE CONTROL NUMBER OF THE CORRESPONDING MOTION ON THE FIRST PAGE OF THE RESPONSE.** There is no fee for filing a response. The responding party must serve the moving party and all other interested parties with a copy of the response the same day by electronic mail, facsimile or hand delivery.*
6. A reply by the moving party, if any, shall be electronically filed by midnight (12:00 a.m.) on the fifth day after receipt of the opposition. **THE REPLY MUST CLEARLY DISPLAY THE CONTROL NUMBER OF THE CORRESPONDING MOTION ON THE FIRST PAGE.** The moving party must serve opposing counsel and all interested parties with a copy of the reply the same day by electronic mail, facsimile or hand delivery.*
7. For all **OPPOSED** motions, moving counsel must provide a courtesy copy of the motion (and any exhibits) and reply (if filed) to the Coordinating Judge of the Complex Litigation Center, 622 City Hall.
8. No later than forty-eight (48) hours prior to the motion reply deadline, counsel for plaintiff must provide to the Coordinating Judge of the Complex Litigation Center, 622 City Hall, a list

* Counsel are reminded of the more exacting nature of the motions practice in the Complex Litigation Center because of the shorter response times and the need to insure the completion of the same day service requirement. Counsel are cautioned that under Pa R.C.P. 205(g)(2)(ii), service by electronic transmission is not complete until "an e-mail message is sent to the recipient by the electronic filing system that the legal paper has been filed and is available for review on the system's website." Accordingly, the obligation of same day service contained in these Procedures will not be satisfied by reliance on Pa.R.C.P. 205.4(g)(2) if a motion, response or reply filed by electronic mail is not accepted by the Court on the date that it is transmitted to the Court.

outlining the status of each pending motion for summary judgment. Said list shall include the trial group month and number, name of plaintiff(s), case court term and number, name of filing defendant, motion control number, type of motion (i.e., product identification, statute of limitations) and motion status (i.e., opposed, unopposed, withdrawn). The information may be presented in spreadsheet, chart or letter format.

9. If any motion or response is withdrawn, filing counsel must electronically file under the appropriate control number, a Praeipie to Withdraw. The Praeipie must clearly display the control number of the motion. All interested parties must be served with a copy the same day by electronic mail, facsimile or hand delivery.
10. The Court will rule on all pending summary judgment motions in a timely manner prior to jury selection.
11. The Court will docket the original signed order and all parties of record will be notified via email by the Court's electronic filing system.
12. Oral argument on Motions will be scheduled by the Court as needed.

Hon. D. Webster Keogh
Administrative Judge

Hon. William J. Manfredi
Supervising Judge

Hon. Sandra Mazer Moss
Coordinating Judge