

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION-CIVIL

IN RE: ASBESTOS LITIGATION

October Term 1986

No. 0001

**CASE MANAGEMENT ORDER
FOR ASBESTOS-RELATED PERSONAL INJURY CLAIMS**

AND NOW, this 13th day of November 2025, the Court enters the following Case Management Order governing personal injury cases involving exposure to asbestos or asbestos-containing products.

This Case Management Order supersedes all prior Case Management Orders entered in the Asbestos Litigation Program and shall apply to all cases now pending and subsequently filed in this Court.

I. ADMINISTRATIVE MATTERS

- A. Liaison counsel: Liaison counsel have been appointed to facilitate communication between the parties and the Court, including the dissemination of any documents filed on the Master Docket to their respective constituent groups. If a party, or their respective counsel, has any questions or concerns related to the Asbestos Litigation

CMOIS-Asbestos Litigation Phila. Ccp Vs. A.C.



86100000100713

Program, those questions or concerns should first be addressed to their respective liaison counsel.¹

- B. There shall be no reverse bifurcation of any asbestos case, unless agreed upon by all counsel involved and approved by the Court.
- C. All punitive damage claims in asbestos cases shall be deferred.
- D. Asbestos Cases Projected Trial Grouping: Once a year, the Court will enter an order with a list of cases to be placed in litigation groups. All cases within a litigation group receive the same case management deadlines, calculated backward from a "litigation group date" assigned to that group and reflected on the docket for

¹ As of the date of this order, the current liaison counsel are:

Plaintiffs' liaison counsel

Laurence Brown
Brookman, Rosenberg, Brown & Sandler
30 South 15th Street
Philadelphia, PA 19102
(215) 569-4000
LBrown@brbs.com

Defense liaison counsel

Catherine Jasons
Kelley Jasons McGowan Spinelli Hanna & Reber LLP
1818 Market Street, Suite 3205
Philadelphia, PA 19103
(215) 854-0658
CJasons@kjmsh.com

The parties and their respective counsel are reminded of their continuing obligation to review the Global Docket for any changes that may occur after the entry of this Case Management Order.

each case within the program.² Asbestos cases shall be organized in groups of a maximum of 10. Liaison counsel shall present the Court with a proposal of litigation groups that takes into consideration the following criteria:

- i. Same law. Cases that involve application of the law of different states will not be grouped together;
- ii. Same disease. The disease category for each case in a group must be identical. The disease categories of cases to be grouped for trial are mesotheliomas, peritoneal mesotheliomas, lung cancers, other cancers and non-malignancy cases;
- iii. Same plaintiff's law firm. Primary trial counsel for all cases in each group will be from a single plaintiff firm. Cases where Philadelphia plaintiff firms serve as local counsel for out-of-state counsel may be grouped with cases from the local firm; however, cases will not be grouped together if the plaintiffs are not represented by the same firm;

² The manner in which cases in the Asbestos Program are managed and scheduled for trial changed after the declaration of the Covid-19 emergency in 2020. Previously, cases were placed into "trial lists" and received "projected trial dates" that were used to calculate case management deadlines. While cases are still grouped by applicable state law, plaintiffs' counsel and disease, what was historically referred to as "projected trial dates" are now designated as "litigation groups." Matters appearing in litigation groups are not listed for trial.

- iv. Pleural mesothelioma is a disease that is distinct from mesotheliomas originating in other parts of the body, and will not be grouped or tried on a consolidated basis with non-pleural mesothelioma cases;
- v. Non-pleural mesothelioma cases will be further classified for grouping, so that non-pleural mesothelioma cases allegedly caused by occupational exposure will not be grouped or tried on a consolidated basis with non-pleural mesothelioma cases allegedly caused by para-occupational (bystander) exposure;
- vi. Such other factors as determined appropriate in weighing whether all parties to the litigation can receive a prompt and just trial. The Court's present backlog of asbestos cases shall not be an overriding factor in the grouping determination.

E. Mediation: Once grouped and assigned a projected trial date, counsel are urged to seek mediation from a special panel of former judges named in ¶ 3 of General Court Regulation 2025-02. All parties will share the expense of mediation.

II. PLEADINGS

A. Short-Form Complaints

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 long-form complaints filed on the above-captioned docket.

The short-form complaint shall contain the information required by Rule *1041.1(B) of the Philadelphia Civil Rules.

A short-form complaint that contains premises liability claims shall include the name and address of each work site at 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, any defendant may file preliminary objections in accordance with the Pennsylvania Rules of Civil Procedure and Rules *1028 and *1041.1 of the Philadelphia Civil Rules. The preliminary objections shall comply with the procedures set forth in Sections V(C) and V(E). Plaintiffs' response to preliminary objections shall be subject to Rule 1028(c)(1) of the Pennsylvania Rules of Civil Procedure and Rule *1028(c) of the Philadelphia Civil Rules.

C. Answers to Complaints

Defendant's answers to complaints are governed by Rule 1041.1 of the Pennsylvania Rules of Civil Procedure and Rule *1041.1 of the Philadelphia Civil Rules.

III. 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 that has been discontinued pursuant to *Giffear*, a motion to reactivate must be filed and include all necessary medical reports supporting the motion. The motion shall be filed in letter brief format consistent with Section V(C) of this order.

IV. DISCOVERY

- A. Unless otherwise agreed to by opposing counsel or upon a showing of exigent circumstances, all discovery shall take place in Philadelphia. A party may notice a deposition to take place at a location outside of Philadelphia so long as that party provides video conferencing, or telephone conferencing if video conferencing is impracticable, at no expense to opposing parties.
- B. A notice of deposition shall be served on all parties at least 14 days before the scheduled deposition date unless, upon agreement of the parties, medically exigent circumstances exist or court approval is obtained for a shorter period. The notice of deposition shall include the intended dates for the continuation of the deposition, if necessary. Plaintiff shall provide the defendants with answers to Defendants' Common Interrogatories no later than five days before

the scheduled deposition date of any plaintiff. Each plaintiff firm will use its best efforts to limit the number of depositions scheduled to occur concurrently to two depositions per firm, per day, regardless of whether the depositions are for witnesses in the same case or different cases.

- C. The following deadlines shall apply for the completion of discovery and the exchange of expert reports, as set forth in the Asbestos Litigation Schedule³:

180 Days before the litigation group date

Plaintiffs shall serve answers to Defendants' Common Interrogatories and Requests for Production Directed to Plaintiffs, including information relating to Bankruptcy Trust Filings as set forth in this Court's Order of April 5, 2010, attached as Exhibit B.

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

Plaintiffs shall forward HIPAA compliant authorization forms signed by plaintiffs to RecordTrak.

120 days before the litigation group date

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

³ The Asbestos Litigation Schedule is established after the Court approves the annual litigation grouping that is proposed by liaison counsel. The deadlines contained within the Asbestos Litigation Schedule are consistent with the deadlines set forth under §§ IV(C), V, and VI of this order.

plaintiffs' experts. This includes, but is not limited to, x-rays, CT scans, pathology and cytology.

Plaintiffs shall serve witness lists identifying the defendants whose products the witnesses are expected to identify.

100 days before the litigation group date
Completion of plaintiffs' depositions.

90 days before the litigation group date
Completion of all co-worker depositions.

30 days before the date of the date-certain jury selection as scheduled by the Court pursuant to Section VIII.
Defendants shall serve medical and expert liability reports.

V. MOTIONS PROCEDURES

- A. This section applies to all motions other than motions for summary judgment that are filed in the Asbestos Litigation Program.

Motions for summary judgment shall be governed by Section VI.
- B. All motions shall be electronically filed each Monday pursuant to Rule 205.4 of the Pennsylvania Rules of Civil Procedure and Rule *205.4 of the Philadelphia Civil Rules. Any motions filed after Monday will be deemed filed the following Monday.
- C. All motions shall be in letter-brief rather than motion package format. The first page of the motion shall include the caption, type of litigation (i.e., Asbestos), name of opposing counsel, and the filing and response dates. 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 contain an executive summary followed by questions presented, facts, and discussion of the issues with citation to pertinent legal authority. Each motion must also include a signed Certificate of Service.

- D. All discovery motions also must include a signed Attorney Certification of Good Faith and Certificate of Service. The Attorney Certification of Good Faith shall attest that certifying counsel has spoken with opposing counsel to resolve the specific dispute at issue, and that despite counsel’s good faith efforts, has been unable to do so. Merely sending an email or letter to opposing counsel without response does not constitute a good faith effort to resolve a discovery dispute.
- E. The moving party must serve opposing counsel and all interested parties with a copy of every motion on the day filed with the Court, by electronic mail, facsimile or hand delivery.⁴ The moving party

⁴ 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 ensure the completion of same-day service. Counsel are cautioned that under Rule 205.4(g)(2)(ii) of the Pennsylvania Rules of Civil Procedure, 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 Section V(E) of this order will not be satisfied by reliance on Rule 205.4 (g)(2) of the Pennsylvania Rules of Civil Procedure 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.

shall notify opposing counsel and all interested parties of the motion Control Number upon notification of same by the Court.

- F. From the date of filing as determined pursuant to Section V(B), opposing counsel shall have seven days to file a response to any motion, unless a specific Case Management Order provides otherwise. The response must be filed no later than 11:59 p.m. of the due date. THE RESPONSE MUST CLEARLY DISPLAY THE CONTROL NUMBER OF THE CORRESPONDING MOTION ON ITS FIRST PAGE. 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.⁵
- G. If any motion or response is withdrawn, filing counsel must electronically file, under the appropriate Control Number, a praecipe to withdraw. The praecipe 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.⁶
- H. Counsel shall not directly contact any mass tort staff attorneys or other Complex Litigation Center staff requesting rulings on motions. Any questions should be sent to the Director of the

⁵ See Footnote 4, *supra*.

⁶ See Footnote 4, *supra*.

Complex Litigation Center via e-mail at asbestosprogram@courts.phila.gov. No email correspondence or other ex parte communications should be sent to the judge.

VI. SPECIAL PROCEDURES FOR MOTIONS FOR SUMMARY JUDGMENT

- A. To prevent the filing of unnecessary motions, as set forth in the Asbestos Litigation Schedule, five days before the deadline for filing summary judgment motions (or 85 days before the litigation group date) plaintiffs' counsel are to serve upon all parties to a case, a letter identifying all defendants that plaintiff will voluntarily dismiss from that case.
- B. All summary judgment motions shall be electronically filed 80 days before the projected trial date and shall comply with the requirements of Section V(C) *supra*.
- C. Unless otherwise governed by Section VI(F), any opposing counsel shall file a response to the motion on or before 63 days before the litigation group date, as set forth in the Asbestos Litigation Schedule. The response must be filed no later than 11:59 p.m. of the due date. The response must clearly display the control number of the corresponding motion on its first page. 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.⁷

- D. A reply by the moving party, if any, shall be electronically filed by 11:59 PM on or before 58 days before the litigation group date, as set forth in the Asbestos Litigation Schedule. The reply must clearly display the control number of the corresponding motion on the first page. The reply must be filed no later than 11:59 p.m. of the due date. The party filing the reply must serve the moving party and all other interested parties with a copy of the reply the same day by electronic mail, facsimile or hand delivery.⁸
- E. Plaintiffs' counsel are under a good faith obligation to determine which of the defendants' motions will be opposed, and to cooperate with defense counsel in signing stipulations of dismissal where appropriate, so that defendants whose presence is not required at mediation are not put to the expense of attending mediation.
- F. If the plaintiffs' counsel would like the Court to hold a motion for summary judgment to allow for mediation, plaintiffs' counsel must notify all parties within 17 days of the filing of that summary judgment motion. Plaintiff need not respond to any motion held in abeyance until the mediator has determined that the claim cannot

⁷ See Footnote 4, *supra*.

⁸ See Footnote 4, *supra*.

be resolved before the Court renders a decision on the motion. Once the mediator makes this determination, the mediator shall give notice of the conclusion of the mediation process to the Court and to all parties by email, identifying those defendants who have had claims against them resolved and those against whom claims remain outstanding. Upon receiving notice from the mediator, the Director of the Complex Litigation Center, or their designee, shall then advise the plaintiffs they may file a response to any defendant's pending motion for summary judgment within seven days and defense replies shall be due no later than seven days after the filing of the response.

- G. Courtesy copies of motions should not be sent to the Complex Litigation Center or to the Court, unless specifically requested by the Court.

VII. MEDIATION

The Court expects all parties to fully cooperate with one another and to act in good faith to try to resolve pending actions. The Court strongly encourages parties to mediate their cases and to schedule mediation as soon as practicable. Cases that are ready to be mediated shall be scheduled for mediation to take place in the order of the litigation groups as they appear on the litigation group lists and after the deadline for the filing of motions for summary judgment as established by this order and the Asbestos Litigation

Schedule prepared on an annual basis. Plaintiffs' counsel shall provide the defendants with no less than 45 days' notice of a scheduled mediation. At the time of notice of the mediation, plaintiffs' counsel shall advise which defendants are expected to participate in the mediation and provide settlement demands. The mediator shall set the deadlines for the timely submission of mediation statements. As cases are scheduled for mediation, plaintiffs' counsel shall notify the Director of the Complex Litigation Center by sending an email to asbestosprogram@courts.phila.gov with the names of the cases being mediated, the name of the mediator and the date of the mediation.

VIII. SCHEDULING OF TRIALS AND DEADLINES

In any case that has not been resolved through mediation, the parties shall be prepared to proceed to a status conference and/or pre-trial conference to be conducted by the Team Leader Judge or their designee, which may take place approximately 30 days after the Court is notified of the failed mediation. If there are any outstanding motions ripe for review after mediation, the Court may rule on those motions before any status conference and/or pre-trial conference. If no status conference and/or pre-trial conference is held or if the matter does not resolve after any status conference and/or pre-trial conference, trial shall be scheduled to commence not less than 90 days after the mediator's notice that mediation has concluded. At that time, the Court will also schedule a date-certain jury selection date or dates.

Plaintiffs shall make best efforts to comply with the deadlines established in the Asbestos Litigation Schedule for the production of plaintiffs' answers to interrogatories, bankruptcy trust filings, authorizations and expert reports. Defendants shall make best efforts to timely respond to discovery requests directed to them. The deadline for production of defense medical and liability reports shall be 30 days before the date of the date-certain jury selection.

Eight-day trial slots are established for each month of each year. There will be a primary case scheduled with designated "back-up" cases, which are expected to be ready to proceed to trial should the primary case settle. In the event the primary case settles, the first back-up will be substituted as the new primary case to be tried; this process shall be repeated until all back-up cases have been resolved. Counsel will be notified by the Court of the order of cases identified for trial and Notices of Trial Attachment will be served on counsel.

Within seven days of being assigned a trial date, as either the primary case or as a back-up case, all counsel and parties must notify the court of any scheduling conflicts, including trial attachments and pre-paid vacations, by electronically filing a conflict letter. The Court will not recognize any untimely conflict notifications. Failure to notify the Court of scheduling conflicts may result in the imposition of appropriate sanctions. To electronically file the conflict letter, access the "Existing Case" section of the court's electronic filing system, select "Conference Submissions" as the filing category, and select "Trial

Pool Conflict Letter” as the document type. The assigned trial judge may serve additional orders or instructions on the parties proceeding to trial.

IX. STIPULATIONS OF DISMISSAL

A. If a plaintiff has agreed to stipulate to the dismissal of a defendant, the defendant (the “Stipulated Defendant”) shall prepare a stipulation of dismissal.

B. The Stipulated Defendant shall circulate the stipulation of dismissal to all defense counsel by letter, stating that any party has 10 days from the date of the letter to object to the dismissal of the Stipulated Defendant.

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

D. If, after the expiration of the 10-day period, no objections are received by the Stipulated Defendant, the stipulation of dismissal may be electronically filed with the Court as unopposed.

E. The electronically filed stipulation of dismissal must be accompanied by a cover letter stating no objections have been raised within the 10-day period.

F. Service of the Court-approved stipulation of dismissal shall be effectuated via the Court’s electronic filing system on all parties of record.

G. Any defendant who settles with the plaintiff and desires to have the matter marked discontinued as to that defendant may follow this procedure or,

in the alternative, file a motion as set forth in Rule 229(b) of the Pennsylvania Rules of Civil Procedure.

X. DEADLINES FOR CASES THAT MOVE TO NEW LITIGATION GROUPS

If any case is moved, with the consent of the Court, from its original litigation group to a later litigation group, all discovery and motions deadlines for the later litigation group will apply. Any summary judgment motions filed before moving the case will remain open and need not be re-filed.

XI. CALL OF THE LIST

A Call of the Asbestos List will be conducted once a month. The Court will serve counsel with notice of the Call of the List schedule. Counsel must be prepared to address issues related to the trial list, matters scheduled for status, pre-trial conferences, motion hearings, and other matters related to the program. The cases listed in a given month may be provided by the Court in advance of the call.

XII. SANCTIONS

The Court expects all counsel to amicably resolve any issues that arise as a result of the implementation of this order. The Court may make exceptions to any procedures or protocols set forth in this order in special situations, *sua sponte* or on written request, electronically filed with service upon all parties, of counsel upon showing extraordinary cause. Failure to comply with any deadlines set forth in this Case Management Order may, upon application to the

Court or after the issuance of a rule to show cause, result in the imposition of appropriate sanctions, including dismissal.

BY THE COURT:

A handwritten signature in blue ink, appearing to be 'JH', is written over a horizontal line.

**JOSHUA H. ROBERTS
MASS TORT TEAM LEADER**