

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY  
**ASBESTOS LITIGATION**

**Docket No:** L-6044-17 (AS)

**Civil Action**

**CASE MANAGEMENT ORDER II**

ESTATE of CURTIS CLAYTON, <i>Plaintiff(s),</i>
vs.
BIRD INCORPORATED, et al <i>Defendant(s).</i>

This matter coming in for a Case Management Conference before Special Master Agatha N. Dzikiewicz and the following parties on January 2, 2019:

FIRM	ATTORNEY	CLIENT
Simon Greenstone	Leah Kagan Sean Kerley	Plaintiff(s) <i>co-counsel with Szaferman Lakind</i>
Caruso Smith	Alexandra Caruso	Union Carbide; CertainTeed
McCarter & English	Debra M. Perry	Johnson & Johnson; Johnson & Johnson Consumer
McGivney Kluger	Caitlin Bodtmann	DAP
O'Toole Scrivo	Gary Van Lieu	Vanderbilt Minerals
Rawle & Henderson	Samuel Garson	Cyprus Amax Minerals; Imerys Talc America
Vasios Kelly	Thomas J. Kelly, Jr.	Bird, Inc.

IT IS on this 3<sup>rd</sup> day of **January, 2019**, *effective from the conference date*;

ORDERED as follows:

Counsel receiving this Order through computerized electronic medium (E-Mail) shall be deemed by the court to have received a copy of the filed original court document. Any document served pursuant to this Order shall be deemed to be served by mail pursuant to R.1:5-2.

Any jurisdictional motions must be filed in accordance with the Court Rules or be waived.

*Any forum non conveniens* motions must be filed as soon as practicable; once sufficient discovery is conducted so that the motion may be properly brought.

**DISCOVERY**

- |                  |  |
|------------------|--|
| January 25, 2019 | Defendants shall serve answers to standard interrogatories by this date.                           |
| February 8, 2019 | Plaintiff shall propound supplemental interrogatories and document requests by this date.          |
| March 8, 2019    | Defendants shall serve answers to supplemental interrogatories and document requests by this date. |
| February 8, 2019 | Defendants shall propound supplemental interrogatories and document requests by this date.         |
| March 8, 2019    | Plaintiff shall serve answers to supplemental interrogatories and document requests by this date.  |

April 30, 2019 Fact discovery, including depositions, shall be completed by this date. Plaintiff's counsel shall contact the Special Master within one week of this deadline if all fact discovery is not completed.

April 30, 2019 Depositions of corporate representatives shall be completed by this date.

### **EARLY SETTLEMENT**

August 16, 2019 Settlement demands shall be served on all counsel and the Special Master by this date.

### **MEDICAL EXPERT REPORT**

June 14, 2019 Plaintiff shall serve medical expert reports by this date.

June 14, 2019 Upon request by defense counsel, plaintiff is to arrange for the transfer of pathology specimens and x-rays, if any, by this date.

November 8, 2019 Defendants shall identify its medical experts and serve medical reports, if any, by this date. In addition, defendants shall notify plaintiff's counsel (as well as all counsel of record) of a joinder in an expert medical defense by this date.

### **LIABILITY EXPERT REPORTS**

July 31, 2019 Plaintiff shall identify its liability experts and serve liability expert reports by this date or waive any opportunity to rely on liability expert testimony.

November 8, 2019 Defendants shall identify its liability experts and serve liability expert reports, if any, by this date or waive any opportunity to rely on liability expert testimony.

### **SUMMARY JUDGMENT MOTION PRACTICE**

August 16, 2019 Plaintiff's counsel shall advise, in writing, of intent not to oppose motions by this date.

August 30, 2019 Summary judgment motions shall be filed no later than this date.

September 27, 2019 Last return date for summary judgment motions.

### **ECONOMIST EXPERT REPORTS**

July 31, 2019 Plaintiff shall identify its expert economists and serve expert economist report(s), if any, by this date or waive any opportunity to rely on economic expert testimony.

November 8, 2019 Defendants shall identify its expert economists and serve expert economist report(s), if any, by this date or waive any opportunity to rely on economic expert testimony.

### **EXPERT DEPOSITIONS**

November 22, 2019 Expert depositions shall be completed by this date. To the extent that plaintiff and defendant generic experts have been deposed before, the parties seeking that deposition in this case must file an application before the Special Master and demonstrate the necessity for that deposition. To the extent possible, documents requested in a deposition notice directed to an expert shall

be produced three days in advance of the expert deposition. The expert shall not be required to produce documents that are readily accessible in the public domain.

**PRE-TRIAL AND TRIAL**

July 23, 2019                      The settlement conference previously scheduled on this date is **cancelled**.

October 29, 2019 @ 10:00am      Settlement conference. All defense counsel shall appear with authority to negotiate settlement and have a representative authorized to negotiate settlement available by phone. Any request to be excused from the settlement conference shall be made to the Special Master no later than 4:00pm of the day prior to the conference.

December 16, 2019                Trial Date. *(The August 26, 2019 trial is adjourned to this date.)*

***Plaintiff(s) counsel shall serve a copy of this Order upon any additional counsel immediately upon receipt.***

*/s/ Ana C. Viscomi*  
ANA C. VISCOMI, J.S.C.

cc:      Clerk, Mass Tort