

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

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

**Civil Action**

**CASE MANAGEMENT ORDER III**

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 April 26, 2019:

FIRM	ATTORNEY	CLIENT
Simon Greenstone	Joseph Mandia	Plaintiff(s) <i>co-counsel with Szaferman Lakind</i>
Caruso Smith	Alexandra Caruso	Union Carbide; CertainTeed
McCarter & English	Debra M. Perry John Garde	Johnson & Johnson; Johnson & Johnson Consumer
McGivney Kluger	Caitlin Bodtmann	DAP
O'Toole Scrivo	Leslie Lombardy	Vanderbilt Minerals
Rawle & Henderson	Brian Lowenberg	Cyprus Amax Minerals
Vasios Kelly	Thomas J. Kelly, Jr.	Bird, Inc.

IT IS on this 30<sup>th</sup> day of April 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**

October 31, 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.

November 29, 2019 Depositions of corporate representatives shall be completed by this date.

### **EARLY SETTLEMENT**

February 14, 2020 Settlement demands shall be served on all counsel and the Special Master by this date.

### **MEDICAL EXPERT REPORT**

January 17, 2020 Plaintiff shall serve medical expert reports by this date.

January 17, 2020 Upon request by defense counsel, plaintiff is to arrange for the transfer of pathology specimens and x-rays, if any, by this date.

April 17, 2020 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**

February 14, 2020 Plaintiff shall identify its liability experts and serve liability expert reports by this date or waive any opportunity to rely on liability expert testimony.

April 17, 2020 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**

February 14, 2020 Plaintiff's counsel shall advise, in writing, of intent not to oppose motions by this date.

May 22, 2020 Summary judgment motions shall be filed no later than this date.

June 19, 2020 Last return date for summary judgment motions.

### **ECONOMIST EXPERT REPORTS**

February 14, 2020 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.

April 17, 2020 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**

July 31, 2020 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**

October 29, 2019                      The settlement conference previously scheduled on this date is **cancelled**.

To be scheduled                      Settlement conference.

August 31, 2020                      Trial Date. (*The December 16, 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