

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

Docket No: L-3793-15 (AS)

Civil Action

CASE MANAGEMENT ORDER IV

| | |
|------------------------------------------------------------------------------------|----------------------------------------------------------|
| DIANE KLEMM (Estate of David Klemm), vs. BORG WARNER CORP., et al | <i>Plaintiff(s),</i> <i>Defendant(s).</i> |
|------------------------------------------------------------------------------------|----------------------------------------------------------|

This matter coming in for a Case Management Conference before Special Master Agatha N. Dzikiewicz and the following parties on October 26, 2017:

| FIRM | ATTORNEY | CLIENT |
|----------------------|------------------|-------------------------------------------------------------------------------------------------------------------|
| Keefe Bartels | Jennifer Ruhl | Plaintiff(s) |
| Breuninger & Fellman | Susan Fellman | Genuine Parts Co.; National Auto Parts Assoc.; Quaker City Motor Parts |
| Caruso Smith Picini | Richard Picini | CertainTeed |
| Eckert Seamans | Elizabeth Weill | Navistar; CNH Industrial America LLC |
| Gibbons PC | Daniel Dorfman | Honeywell International |
| Hardin Kundla | Laura Dunn | Deere & Co. |
| Landman Corsi | Jessica Seiden | Lincoln Electric Co. |
| Leader & Berkon | Joseph Fontak | IMO Ind. |
| LeClair Ryan | Adam Husik | Ford |
| McElroy Deutsch | Joseph D. Rasnek | Rockwell |
| McElroy Deutsch | Brian Sorensen | Eaton |
| O'Toole Scrivo | Leslie Lombady | Dana Co. |
| Oller Breslin | John Breslin | Sussex County Plumbing |
| Pascarella DiVita | Stephanie DiVita | Ingersoll Rand; Trane US; Crane Co. |
| Reilly Janiczek | Inna Keith | New Holland North America, Inc.; incorrectly sued as CNH Industrial America f/k/a New Holland North America, Inc. |

IT IS on this 26th day of October, 2017, 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.

DISCOVERY

November 30, 2017 Plaintiff shall serve answers to standard interrogatories, provide the information required by paragraph VII.B.1.a. of the General Order, and shall advise defendants whether the plaintiff is available for deposition and, if not, the reasons therefore by this date.

November 30, 2017 Plaintiff shall serve answers to wrongful death interrogatories by this date.

December 15, 2017 Defendants shall serve answers to standard interrogatories by this date.

December 29, 2017 Plaintiff shall propound supplemental interrogatories and document requests by this date.

February 2, 2018 Defendants shall serve answers to supplemental interrogatories and document requests by this date.

December 29, 2017 Defendants shall propound supplemental interrogatories and document requests by this date.

February 2, 2018 Plaintiff shall serve answers to supplemental interrogatories and document requests by this date.

April 6, 2018 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.

May 4, 2018 Depositions of corporate representatives shall be completed by this date.

EARLY SETTLEMENT

April 30, 2018 Settlement demands shall be served on all counsel and the Special Master by this date.

SUMMARY JUDGMENT MOTION PRACTICE

April 13, 2018 Plaintiff's counsel shall advise, in writing, of intent not to oppose motions by this date.

April 27, 2018 Summary judgment motions shall be filed no later than this date.

May 25, 2018 Last return date for summary judgment motions.

MEDICAL DEFENSE

February 2, 2018 Plaintiff shall serve medical expert reports by this date.

February 2, 2018 Plaintiff is to arrange for the transfer of pathology specimens and x-rays, if any, by this date.

June 29, 2018 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

April 6, 2018 Plaintiff shall identify its liability experts and serve liability expert reports or a certified expert statement by this date or waive any opportunity to rely on liability expert testimony.

June 29, 2018 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.

ECONOMIST EXPERT REPORTS

- April 6, 2018 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.
- June 29, 2018 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 27, 2018 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

- November 13, 2017 The settlement conference previously scheduled on this date is **cancelled**.
- May 2, 2018 The settlement conference previously scheduled on this date is **cancelled**.
- August 7, 2018 @ 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.
- August 27, 2018 Trial Date. (*The June 11, 2018 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