

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

**Docket No:** L-993-16 (AS)

**Civil Action**

**CASE MANAGEMENT ORDER IV**

ESTATE of KENNETH SIMON, <i>Plaintiff(s),</i>
vs.
CLARK MATERIAL HANDLING CORP., 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 December 14, 2018:

FIRM	ATTORNEY	CLIENT
Locks Law Firm	Alfred Anthony	Plaintiff(s)
Caruso Smith	Marcia DePolo	CertainTeed
Duane Morris LLP	Dawnn Briddell	The Raymond Corp.
Goldberg Segalla	H. Lockwood Miller	Hyster-Yale
Goodall Devries	Malcolm Brisker	Crown Equipment Co.
Hoagland Longo	Ibrahim Kosoko	Thul Auto Parts
Kelley Jasons	Angela Caliendo	Rexnord Corp.; FMC Corp.
LeClair Ryan	Gary M. Sapir	Ford Motor Co.
Marks O'Neill	Paul Smyth	Caterpillar
Marshall Dennehey	Paul Johnson	Pep Boys
O'Toole Scrivo	Casey Chamra	Unex Mfg.; Barclay Brand Corp.
Porzio Bromberg	Michelle Molinaro Burke	Toyota Material Handling USA
Wilbraham Lawler	Lynn E. Roberts, III	Clark Equipment; Leeson Electric Corp.

IT IS on this 17<sup>th</sup> day of **December, 2018**, *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.

Defense counsel shall notify plaintiff's counsel within thirty (30) days of the date of this Order if their client was incorrectly named in the Complaint. Counsel may be barred from raising this defense at a later time for failure to comply.

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**

- February 28, 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.
- February 28, 2019 Depositions of corporate representatives shall be completed by this date.

## **EARLY SETTLEMENT**

- April 12, 2019 Settlement demands shall be served on all counsel and the Special Master by this date.

## **MEDICAL EXPERT REPORT**

- March 29, 2019 Plaintiff shall serve medical expert reports by this date.
- March 29, 2019 Upon request by defense counsel, plaintiff is to arrange for the transfer of pathology specimens and x-rays, if any, by this date.
- July 31, 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**

- March 29, 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.
- July 31, 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**

- April 12, 2019 Plaintiff's counsel shall advise, in writing, of intent not to oppose motions by this date.
- April 26, 2019 Summary judgment motions shall be filed no later than this date.
- May 24, 2019 Last return date for summary judgment motions.

## **ECONOMIST EXPERT REPORTS**

- March 29, 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.
- July 31, 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**

- August 30, 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 18, 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.
- September 5, 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.
- September 30, 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