

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

**Docket No:** L-3283-18 (AS)

**Civil Action**

**CASE MANAGEMENT ORDER I**

JOHN & BETTY TIETJEN <i>Plaintiff(s),</i>
vs.
ACE HARDWARE 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 November 28, 2018:

FIRM	ATTORNEY	CLIENT
Nass Cancelliere	Richard Hackman	Plaintiff(s) <i>co-counsel with James J. Pettit</i>
Caruso Smith	Marcia DePolo	CertainTeed; Union Carbide
Connell Foley	Richard Jagen	Palermo Supply Co.
Eckert Seaman	Ezra Alter	AO Smith
Gibbons PC	Robert Brown	The Sherwin Williams Co.
Maron Marvel	Lina C. Flanagan	Keller/Dorr-Oliver Boiler
McElroy Deutsch	Nancy McDonald	Drever Co.
McGivney Kluger	Marc Wisel	DAP
McGivney Kluger	Trish Wilson	Homasote Corp., Pecora Corp.; Ace Hardware
Rawle & Henderson	Linda Dobbins	American Biltrite, Inc.
Reilly McDevitt	Anthony Giordano	Benjamin Bros.
Swartz Campbell	Patrick Fitzmaurice	MA Bruder & Sons

IT IS on this 29<sup>th</sup> day of **November, 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.

**DISCOVERY**

January 31, 2019      Plaintiff shall serve answers to wrongful death interrogatories by this date.

- December 31, 2018 Defendants shall propound supplemental interrogatories and document requests by this date.
- January 31, 2019 Plaintiff shall serve answers to supplemental interrogatories and document requests by this date.
- March 29, 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.
- March 29, 2019 Depositions of corporate representatives shall be completed by this date.

### **EARLY SETTLEMENT**

- August 2, 2019 Settlement demands shall be served on all counsel and the Special Master by this date.

### **SUMMARY JUDGMENT MOTION PRACTICE**

- August 2, 2019 Plaintiff's counsel shall advise, in writing, of intent not to oppose motions by this date.
- August 16, 2019 Summary judgment motions shall be filed no later than this date.
- September 13, 2019 Last return date for summary judgment motions.

### **MEDICAL DEFENSE**

- December 31, 2018 Plaintiff shall serve updated medical authorizations by this date.
- July 31, 2019 Plaintiff shall serve medical expert reports by this date.
- July 31, 2019 Upon request by defense counsel, plaintiff is to arrange for the transfer of pathology specimens and x-rays, if any, by this date.
- October 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**

- July 31, 2019 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.
- October 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.

### **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**

November 13, 2019 @ 1:30pm 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.

***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: Counsel:

Tanenbaum Keale for Foster Wheeler

cc: Clerk, Mass Tort