

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

**Docket No: L-4497-13 (AS)**

**Civil Action**

**CASE MANAGEMENT ORDER I**

EILEEN TOUGHILL (Estate of Kenneth Toughill),  <i>Plaintiff(s),</i>  vs.  AO SMITH CORPORATION, et al  <i>Defendant(s).</i>
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This matter coming in for a Case Management Conference before Special Master Agatha N. Dzikiewicz and the following parties on *September 30, 2013*:

<b>FIRM</b>	<b>ATTORNEY</b>	<b>CLIENT</b>
Cohen Placitella & Roth	Michael McMahon	Plaintiff(s)
Baginski Mezzanotte	Kurt Trinter	Viking Pump
Carroll McNulty	Kate Hyde	Copes Vulcan
Forman Perry	Nicole Diesa	Trane US, Inc.
Hoagland Longo	Matthew Cassidy	York International
Kelley Jasons	Joseph Vassalotti	FMC
McElroy Deutsch	Helen Antoniou McGowan	AO Smith Corp.
McGivney Kluger	Thomas McNulty	Weil McLain
Pascarella DiVita	Michael Posavetz	Rheem Mfg.
Reilly Janiczek	Brandy Harris	Cleaver Brooks; Sealing Equipment & Products
Speziali Greenwald (on behalf of Sedgwick)	Joanne Hawkins	Foster Wheeler

IT IS on this 8<sup>th</sup> day of **October, 2013** 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 plaintiffs' 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**

October 31, 2013      Plaintiff shall serve answers to standard interrogatories, provide the information required by paragraph VI.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 29, 2013 Plaintiff shall serve answers to wrongful death interrogatories by this date.

November 15, 2013 Defendants shall serve answers to standard interrogatories by this date.

November 29, 2013 Plaintiff shall propound supplemental interrogatories and document requests by this date.

December 31, 2013 Defendants shall serve answers to supplemental interrogatories and document requests by this date.

November 29, 2013 Defendants shall propound supplemental interrogatories and document requests by this date.

December 31, 2013 Plaintiff shall serve answers to supplemental interrogatories and document requests by this date.

February 28, 2014 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 28, 2014 Depositions of corporate representatives shall be completed by this date.

#### **EARLY SETTLEMENT**

June 6, 2014 Settlement demands shall be served on all counsel and the Special Master by this date.

#### **SUMMARY JUDGMENT MOTION PRACTICE**

April 25, 2014 Summary judgment motions limited to product identification issues shall be filed no later than this date.

May 23, 2014 Last return date for product identification summary judgment motions.

#### **MEDICAL DEFENSE**

November 29, 2013 Plaintiff shall serve executed medical authorizations by this date.

October 31, 2013 Plaintiff shall serve a diagnostic medical report and any medical records in plaintiff's possession by this date.

November 29, 2013 Any defendant wishing to present a medical defense shall advise all counsel of its intention by entering a Notice of Appearance of Defense Medical Counsel by this date. Any defendant who does not file such an appearance by this date may be foreclosed from asserting a medical defense.

April 30, 2014 Plaintiff shall serve additional medical expert reports by this date.

April 30, 2014 Plaintiff is to arrange for the transfer of pathology specimens and x-rays, if any, by this date.

July 21, 2014 Defendants shall identify its medical experts and serve medical expert reports, if any, by this date.

**LIABILITY EXPERT REPORTS**

June 20, 2014 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.

July 21, 2014 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**

June 20, 2014 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 21, 2014 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 15, 2014 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**

August 7, 2014 @ 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. (*\*note date change.*)

August 25, 2014 Trial Date.

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

*/s/ Vincent Le Blon*  
VINCENT Le BLON, J.S.C.

cc: Clerk, Mass Tort  
Brody Deposition Services  
Priority One