

CASE MANAGEMENT MANUAL FOR ASBESTOS CASES



NEW JERSEY SUPERIOR COURT



**APPROVED JANUARY 2006
BY THE NEW JERSEY JUDICIAL COUNCIL**

NOTE

This Case Management Manual for Asbestos Cases (“Manual”) is intended to provide procedural and operational guidance to New Jersey judges, Judiciary staff and the bar in the management and handling of asbestos cases. The Manual was prepared by the Superior Court Judge Ann G. McCormick, Special Master Agatha N. Dzikiewicz, and Michelle V. Perone, Chief of Civil Court Services in the Civil Practice Division of the Administrative Office of the Courts. The Manual has been approved by the Judicial Council on the recommendation of the Conference of Civil Presiding Judges. The Manual will be updated periodically as necessary.

The Manual sets out Judiciary policies previously adopted by the New Jersey Supreme Court, the Judicial Council, and the Administrative Director of the Courts, but does not itself establish case management policy. While the Manual thus reflects Judiciary policies existing as of the date of its preparation, in the event there is a conflict between the Manual and any statement of policy issued by the Supreme Court, the Judicial Council, or the Administrative Director of the Courts, that statement of policy, rather than the provision in the Manual, will be controlling.

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I. BACKGROUND

The term asbestos describes several naturally occurring mineral fibers, of which chrysotile, amosite, anthophyllite and crocidolite are commercially important. The fiber, which was used for centuries, is a unique thermal insulator, capable of withstanding very high temperatures without burning. In addition, some grades of asbestos fiber were woven into cloth.

The possible health problems from exposure to asbestos were not widely recognized sooner because of the slow progress of the disease and the inability to recognize it in its early stages. Asbestosis and mesothelioma are seldom manifested less than twenty years following exposure. The incubation period for these diseases is twenty to forty or more years.

Asbestos litigation is complex for several reasons. The cases involve numerous defendants of various types, who may be brought into the case on different theories of liability as discovery progresses; discovery is difficult, costly and time-consuming; and expert witnesses are used in the cases.

II. NATURE OF INDIVIDUAL CLAIMS

Asbestos cases are not ordinary tort suits. They involve allegations of serious and diverse injuries, some of which are particularly associated with asbestos exposure (for example, mesothelioma), others of which have multiple possible causes (for example, lung cancer), and all of which require expert testimony to prove. Asbestos-related diseases are progressive, and the prognosis in individual cases may be highly uncertain. The latency of asbestos disease makes causation difficult to prove in individual cases. Because the typical claimant was exposed to multiple asbestos products, it may also be difficult to demonstrate the nexus between a defendant and the source of exposure. Taken together, these characteristics of the claims suggest that asbestos lawsuits would be unusually difficult to resolve, even if there were fewer of them.

Of course, over time, attorneys with specialized asbestos practices have acquired the requisite substantive expertise and developed routines for managing their cases that mitigate these difficulties. But the initial need for special expertise and extraordinary case development contributed significantly to the concentration of cases in relatively few law firms, which now complicates resolution of the cases.

Numerous Defendants

There may be 5 to 200 defendants in an asbestos case. A plaintiff may name all possible parties in the complaint, but often, the plaintiff or defendants will bring in additional parties through amended complaints or third party practice as discovery progresses. Third party practice may extend to fourth and fifth party actions. The General Order for Asbestos Litigation in Middlesex County requires a factual basis for the addition of new parties. If the case has an old docket number or is scheduled for trial, the court may require the party who joined the new party to bring the party current as a condition for allowing the joinder of a new party.

Discovery

A plaintiff may allege that the asbestos exposure occurred more than 40 years ago for several months, or for a period of 20 to 30 years at various locations during employment in various occupations. A plaintiff may rely on its own recollection; co-workers' testimony; testimony of others with knowledge of asbestos fiber or products used where plaintiff worked; testimony of representatives of plaintiff's employer or a defendant corporation; and documents such as the plaintiff's employee records, documents showing supply of asbestos to plaintiff's work site, formula books used in the manufacture of asbestos products, contracts for the insulation, maintenance, inspection or repair of plants or plant equipment involving asbestos; and specifications showing certain asbestos products were required.

Types of Defendants

A defendant may be the miner of asbestos; the manufacturer of a finished asbestos product; the seller, supplier or distributor of asbestos fiber or product; the owner of a work site where a plaintiff was exposed to asbestos while employed by an outside contractor doing work at the site; an insurance company who inspected plaintiff's place of employment in the course of determining the condition of the plant for the purpose of writing a liability policy for the insured; co-conspirators; or an employer.

Multiple Defendants

The practice of suing for example, twenty or more defendants had resulted in excessive cross claims and duplication of effort in the pleadings stage and the discovery process. Sorting through this maze of parties in order to eliminate those without liability, and working with a number of attorneys, had proved to be difficult and time-consuming for the parties and judges.

Asbestos cases have presented a variety of difficult factual questions. Initially, neither the medical profession, the courts, nor the bar understood the basic medical issues involved. What is the causal relationship between exposure to asbestos and the development of mesothelioma and other forms of lung disease? What other factors of life style contribute to the onset and course of the disease? What techniques are available to diagnose the disease and establish the causal links? Over a period of years, these matters have been explored fully. Doctors, lawyers, and judges working in the area are now fully familiar with the basic causal relationships. While their application to particular cases remains disputable, the basic medical principles to be applied are well established and need not be litigated anew in every trial.

More difficult to establish is the allocation of responsibility among defendants. For example, what company supplied the particular asbestos to which an injured person was exposed? Records of purchases forty years or more in the past often no longer exist. When they can be reconstructed, *e.g.*, when it can be demonstrated that asbestos was sold by a particular manufacturer to a particular ship builder for use on one or more vessels, it is often impossible to prove that one manufacturer's product was in fact used in the reconstruction of the section of a ship on which an injured employee worked. An associated issue is the attribution of the development of a plaintiff's affliction to one or more particular exposures, or the prediction of the onslaught of disease in a currently healthy, but exposed, person.

The great majority of asbestos cases have been filed in Middlesex County with the next highest caseload being in Camden County. It appears that cases have been concentrated in these counties because of the highly industrial nature of the areas. As a result, the pretrial handling of pending asbestos litigation was previously centralized in the Middlesex vicinage. Directive #6-83, dated January 3, 1984, was issued at the Supreme Court's request, and provided that the Hon. John E. Keefe (now retired) was to review all asbestos cases otherwise ready for trial in order to ensure uniformity and consistency in the decision to try individual cases. As a result, Judge Keefe handled all such matters statewide with the assistance of a full-time special master. During this time, many procedures and techniques were developed which streamlined the handling of these matters and eliminated unnecessary duplication. Many of these techniques continue to be used today.

By Supreme Court Order dated April 8, 1987, Directive #6-83 was rescinded and replaced by Directive #4-86, copies of which appear in the appendix. As a result, centralized judicial management and control of asbestos litigation on a statewide basis was terminated. Each Assignment Judge of those vicinages in which asbestos litigation constituted a “significant number” of pending cases was asked to designate one or more judges to be responsible for the management of such cases within the vicinage.

The Order of April 8, 1987 further provides:

- that the designated asbestos litigation judges must issue a model or standard case management order for asbestos litigation to ensure the uniform management of such cases within each vicinage;
- that the designated asbestos litigation judges should develop general management guidelines suggesting calendaring priorities, in Order to prevent or resolve scheduling conflicts; and
- that the designated asbestos litigation judges shall confer among themselves to facilitate coordinated and consistent management of asbestos cases.

Experts

Various medical experts may be used to prove or disprove plaintiff’s injury and the cause of plaintiff’s injury. Plaintiff and defendants will use a pulmonary expert if plaintiff alleges pulmonary or pleural asbestosis. If an asbestos-related cancer is involved, pathologists will be used. If plaintiff alleges an emotional injury, such as fear of cancer or cancerphobia, a psychologist or psychiatrist may be used.

An epidemiologist may be used by plaintiff to prove causation of injury.

Liability experts may be used by plaintiff and defendant to prove or disprove that a product emits friable asbestos fiber. (Generally this issue comes up with gasket or packing products.) An expert may be used by defendant to show that conditions at plaintiff’s place of employment exceeded acceptable standards and caused plaintiff’s injury.

An economist may be used where future economic loss is an issue.

Impact of Bankruptcies

Complicating the courts' ability to move asbestos cases is the fact that a significant number of defendants have sought Chapter 11 protection. Cases against the bankrupt defendants must be stayed during reorganization proceedings.

Over time, some defendants have been able to coordinate litigation activities and to agree on formulae for sharing damage payments. As defendants drop out of the mainstream litigation, however, these arrangements are disrupted. Moreover, as corporations emerge from bankruptcy, the trusts created to handle payments to claimants found themselves the targets of third-party claims from the non-bankrupt defendants.

III. DUTIES OF THE SPECIAL MASTER

Because the overwhelming bulk of asbestos cases continue to be venued in the Middlesex vicinage, the vicinage has been allocated a full-time special master. In general, the special master assists the court and counsel in the prompt and efficient disposition of asbestos cases.

Specifically, the special master conducts case management conferences; assists the judge with the day-to-day problems that arise; schedules cases for trial; and conducts settlement conferences prior to the trial date. A copy of the Uniform Case Management Order used by the Middlesex special master appears in the appendix.

IV. JUDICIAL MANAGEMENT OF ASBESTOS CASES

As a result of the considerable experience gleaned over the past numerous years in the Middlesex vicinage, a comprehensive General Order has been developed. The Order, a copy of which appears in the appendix, is intended to guide the litigation from beginning to end, organize and streamline it to achieve maximum efficiencies and avoidance of unnecessary cost and replication. The Order contains several provisions relating to:

- the filing and service of complaints and use of master complaints;

- the General Order provides that all pleadings, including complaints, must include “Civil Action – Asbestos Litigation” in the caption. This is intended to allow the court to readily identify these cases. Every complaint must be brought on behalf of only one plaintiff, except one plaintiff may include multiple parties to the extent that the claims are derivative (*e.g.*, John Doe, Executrix for the Estate of John Doe, and individual heirs of John Doe). The purpose of this is to provide ease in tracking each claimant;
- the requirements for filing of initial fact sheets (copies of which are attached in the appendix);
- The “Plaintiff’s Initial Fact Sheet” is required to ensure that the court, early on, has operative information needed to separate claimants into groups based upon commonalities;
- consolidation for discovery purposes of cases involving common issues and/or circumstances;
- if the claims of multiple individual plaintiffs arise out of similar circumstances (such as members of the same workgroup or employees at the same worksite) such cases may be consolidated by the court for discovery purposes either upon the initial filing or thereafter. If consolidated upon initial filing, the master asbestos complaint approved by the court must be utilized;
- all consolidated matters shall utilize an abbreviated caption and be referred to as “In re _____” (the name of the plaintiff in the earliest filed case), and shall use the docket number of earliest filed case. Although all pleadings upon and after the consolidation shall be captioned in the abbreviated caption, they shall further state, directly underneath or next to the abbreviated caption, the individual case(s) to which the pleading relates by setting forth the individual case name and the docket number of that case;
- the filing and service of standard answers and crossclaims;
- the General Order requires that all defendants are required to file a “Standard Answer and Cross Claim” or a “Standard Consolidated Answer and Cross Claim” to asbestos complaints. The filing of a “Standard Answer and Cross Claim” or a “Standard Consolidated Answer and Cross Claim” is not deemed to constitute acceptance of service of process in any matter;

- the General Order further provides that upon filing of a “Standard Answer and Cross Claim” or a “Standard Consolidated Answer and Cross Claim,” a defendant shall file a “Notice of Adoption of Standard Answer and Cross Claim” or a “Notice of Adoption of Standard Consolidated Answer and Cross Claim” in lieu of filing a full answer and cross claim;
- amendment and supplementation of pleadings;
- the Order notes that any party may seek leave to amend and/or supplement its pleadings or add or join parties or file a third party pleading in a case that is not over 3 years old upon the submission of a proposed form of Order to the court along with a certification that all answering parties have been served with the proposed form of Order. The Order will be signed by the court unless an objection is received within 10 days of service of the proposed form of Order. If an objection is received, the court will schedule a telephone conference or a motion, as is appropriate. However, leave to file an amended or supplemental pleading or to add or join parties or to file a third party pleading in a case over 3 years old may only be sought by way of motion, filed in accordance with *R. 1:6-2*, showing good cause. Finally, answers filed before the filing of the amended and supplemental pleading in response to the initial pleading shall be deemed to be answers filed in response to the amended or supplemental pleading;
- the filing of third party actions;
- the Order provides that all third party complaints must include a statement containing the factual basis for joining the third party defendant. It also requires that they have appended a list of the names and addresses of attorneys who have filed pleadings in the action and the names of the parties each attorney represents; a copy of the complaint; and a copy of the General Order only in connection with service on a third party defendant who has not previously appeared in asbestos litigation in Middlesex County;
- third party plaintiffs must, within 20 days of receipt of third party defendant’s responsive pleading, supply the third party defendant with:
 - copies of all interrogatories and interrogatory answers served or received by the third party plaintiff;

- copies of all requests for production of documents and responses to requests for production of documents served or received by the third party plaintiff;
 - a list of all witnesses deposed in the action and scheduled to be deposed, the date of said deposition(s) and the name and address of the court reporter; and
 - copies of all expert witness reports prepared on behalf of the third party plaintiff or received from another party to the action.
- discovery and document production, including the use of uniform interrogatories (copies of which also appear in the appendix) and the conduct of depositions, the provision of expert reports and other modes of discovery;
 - in Middlesex, all discovery deadlines are set by the special master at the initial case management conference. Standardized interrogatories have been developed and must be used in the form approved and kept on file by the court. Copies appear in the appendix. Limited supplemental interrogatories are permitted;
 - motion practice, including uniform motion forms (copies appear in the appendix) and proceedings conducted by the special master;
 - court conferences; and
 - trial.

APPENDICIES

ASBESTOS LITIGATION – DIRECTIVE #4-86

ASBESTOS LITIGATION – GENERAL ORDER

ATTACHMENT A – PLAINTIFFS INITIAL FACT SHEET

ATTACHMENT B – PLAINTIFFS FORM A I INTERROGATORIES (1-35)

ATTACHMENT C – PLAINTIFFS FORM A II INTERROGATORIES (36-56)

ATTACHMENT D – PLAINTIFFS FORM A II INTERROGATORIES

ATTACHMENT E – DEFENDANT INTERROGATORIES FORM B

**ATTACHMENT F – MOTION FOR SUMMARY JUDGMENT BY
DEFENDANT**

**ATTACHMENT G – ORDER FOR SUMMARY JUDGMENT FOR
DEFENDANT**

ATTACHMENT H – PRO HAC VICE MOTIONS (REVISED) *R.1:21-2*

**ATTACHMENT I – NOTICE OF APPEARANCE OF DEFENSE MEDICAL
COUNSEL**

**ATTACHMENT J – AUTHORIZATION FOR RELEASE OF PROTECTED
HEALTH INFORMATION MEDICAL RECORDS**

**ATTACHMENT K – COURT ORDER FOR RELEASE OF RADIOGRAPHIC
DATA, PATHOLOGY MATERIALS AND SPECIMENS
FROM A MEDICAL FACILITY**

ATTACHMENT L – UNIFORM CASE MANAGEMENT ORDER FORM

Asbestos Litigation

Directive #4-86

April 28, 1987

Issued by: Robert D. Lipscher, Administrative Director

Pursuant to the Order of April 8, 1987, centralized judicial management and control of asbestos litigation on a statewide or regional basis [are] no longer necessary. Accordingly, each assignment judge of those vicinages in which asbestos litigation constitutes a "significant number" of pending cases must designate one or more judges to be responsible for the management of such cases within the vicinage.

The Order of April 8, 1987 further provides:

- that the designated asbestos litigation judges must issue a model or standard case management order for asbestos litigation, to ensure the uniform management of such cases within each vicinage;
- that the designated asbestos litigation judges should develop general management guidelines suggesting calendaring priorities, in order to prevent or resolve scheduling conflicts; and
- that the designated asbestos litigation judges shall confer among themselves to facilitate coordinated and consistent management of asbestos cases.

Please advise the Chief Justice, with copies to me, of the number of pending asbestos cases in your vicinage and of the judge or judges you have designated to manage such cases.

Editor's Note

This directive was addressed to all Assignment Judges. Paragraphs 1 and 2 of the directive rescinding Directive #6-83 have been deleted and the final paragraph has been modified so as to delete the date for notification of pending asbestos cases. Notification of pending asbestos cases has continued indefinitely.

IN RE: MIDDLESEX ASBESTOS LITIGATION	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY DOCKET NO. L- CIVIL ACTION — ASBESTOS LITIGATION GENERAL ORDER
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I. COMPLAINTS

A. All complaints must:

1. Include “Civil Action - Asbestos Litigation” in the caption.
2. Be brought on behalf of only one plaintiff or members of a single household, except one plaintiff may include multiple parties to the extent that the claims are derivative (*e.g.*, John Doe, Executrix for the Estate of John Doe, and individual heirs of John Doe).
3. Have annexed thereto “Plaintiff’s Initial Fact Sheet” in the form annexed hereto as Attachment A.
4. Have annexed thereto a copy of this General Order only in connection with service on a defendant who has not previously appeared in asbestos litigation in Middlesex County.

II. CONSOLIDATION FOR DISCOVERY PURPOSES

- A. If the claims of multiple individual plaintiffs arise out of similar circumstances (such as members of the same workgroup or employees at the same worksite), such cases may be consolidated by the court for discovery purposes either upon the initial filing or thereafter.
- B. If consolidated upon initial filing, the master asbestos complaint approved by the court must be utilized.
- C. Such consolidated matters shall utilize an abbreviated caption and be referred to as “In re _____” (the name of the plaintiff in the earliest filed case), and shall use the docket number of the earliest filed case.

- D. Although all pleadings upon and after the consolidation shall be captioned in the abbreviated caption, they shall further state, directly underneath or next to the abbreviated caption, the individual case(s) to which the pleading relates by setting forth the individual case name and the docket number of that case. A separate filing fee shall be paid for each docket number.
- E. If consolidation is sought after the filing of the Complaint, but before service, plaintiffs may submit an *ex parte* order to the court seeking consolidation. Plaintiffs shall, within 15 days of the consolidation order, cause a single Summons, bearing the abbreviated caption and attaching the consolidation order, to be served upon defendants.
- F. If consolidation is sought after the filing and service of the individual complaints, consolidation shall be by submission of a proposed form of Order to the court along with a certification that all answering parties have been served with the proposed form of Order. The court will sign the Order unless an objection is received within 10 days of service of the proposed form of Order. If an objection is received, the court will schedule a telephone conference or a motion, as is appropriate.
- G. In all consolidated cases, the parties shall provide the clerk's office with sufficient copies of the Complaint and other pleadings for filing in each case jacket.
- H. Notwithstanding the procedures set forth herein, if consolidation of more than 20 individual cases is sought, consolidation may be sought only upon motion filed in accordance with *R. 1:6-2*.

III. ANSWERS

- A. All answers filed shall include "Civil Action - Asbestos Litigation" in the caption.
- B. All defendants shall file a "Standard Answer and Cross Claim" or a "Standard Consolidated Answer and Cross Claim" to asbestos complaints venued in Middlesex County.
- C. The "Standard Answer and Cross Claim" or the "Standard Consolidated Answer and Cross Claim" shall be filed under the caption "In re Asbestos Litigation Venued in Middlesex County," with the docket number assigned to such caption (which can be obtained from the Mass Tort Office.)
- D. The filing of a "Standard Answer and Cross Claim" or a "Standard Consolidated Answer and Cross Claim" shall not be deemed to constitute acceptance of service of process in any matter.

- E. The filing of a “Standard Answer and Cross Claim” and a “Standard Consolidated Answer and Cross Claim” shall not necessitate the payment of a filing fee nor shall it waive the requirement of payment of a filing fee upon the filing of a “Notice of Adoption of Standard Answer and Cross Claim” or “Notice of Adoption of a Standard Consolidated Answer and Cross Claim.”
- F. Upon filing a “Standard Answer and Cross Claim” or a “Standard Consolidated Answer and Cross Claim,” a defendant shall file a “Notice of Adoption of Standard Answer and Cross Claim” or a “Notice of Adoption of Standard Consolidated Answer and Cross Claim” in lieu of filing a full answer and cross claim.
- G. Defendant shall pay the filing fee upon the filing of a “Notice of Adoption of Standard Answer and Cross Claim” or a “Notice of Adoption of Standard Consolidated Answer and Cross Claim.”
- H. Defendant shall file its “Notice of Adoption of Consolidated Answer and Cross Claim” bearing the abbreviated caption and the caption(s) and docket number(s) of the individual case(s) to which it relates. Defendant shall pay the filing fee for filing an answer in each individual case and shall provide the clerk’s office with sufficient copies of the Notice of Adoption for filing in each case jacket.
- I. A defendant may file an “Amended Standard Answer and Cross Claim” or an “Amended Standard Consolidated Answer and Cross-Claim” which then may be adopted by “Notice of Adoption of Amended Answer and Cross Claim” or “Notice of Adoption of Amended Standard Consolidated Answer and Cross Claim,” subject to the rules set forth herein.

IV. THIRD PARTY ACTIONS

- A. Third Party Complaints shall:
 - 1. Include a statement containing the factual basis for joining the third party defendant;
 - 2. Have appended to the Third Party Complaint a list of the names and addresses of attorneys who have filed pleadings in the action and the names of the parties each attorney represents;
 - 3. Have appended to the Third Party Complaint a copy of the Complaint; and
 - 4. Have appended to the Third Party Complaint a copy of this General Order only in connection with service on a third party defendant who has not previously appeared in asbestos litigation in Middlesex County.

- B. Third party plaintiff shall, within 20 days of receipt of third party defendant's responsive pleading, supply the third party defendant with:
1. Copies of all interrogatories and interrogatory answers served or received by the third party plaintiff;
 2. Copies of all requests for production of documents and responses to requests for production of documents served or received by the third party plaintiff;
 3. A list of all witnesses deposed in the action and scheduled to be deposed, the date of said deposition(s) and the name and address of the court reporter; and,
 4. Copies of all expert witness reports prepared on behalf of the third party plaintiff or received from another party to the action.

V. AMENDED/SUPPLEMENTAL PLEADINGS

- A. Any party may seek leave to amend and/or supplement its pleadings or add or join parties or file a third party pleading in a case that is not over 3 years old upon the submission of a proposed form of Order to the court along with a certification that all answering parties have been served with the proposed form of Order. The Order will be signed by the court unless an objection is received within 10 days of service of the proposed form of Order. If an objection is received, the court will schedule a telephone conference or a motion, as is appropriate.
- B. Leave to file an amended or supplemental pleading or to add or join parties or to file a third party pleading in a case over 3 years old may only be sought by way of motion, filed in accordance with *R. 1:6-2*, showing good cause.
- C. Answers filed before the filing of the amended and supplemental pleading in response to the initial pleading shall be deemed to be answers filed in response to the amended or supplemental pleading.

VI. DISCOVERY

The *Rules of the Court of the State of New Jersey* regarding discovery shall be applicable to asbestos litigation venued or to be venued in Middlesex County except as set forth herein.

A. General

All discovery deadlines shall be set by the Special Master at the Initial Case Management Conference. See *Section XII.A* herein.

B. Interrogatories

1. Standardized interrogatories in the form approved and kept on file by the court shall be utilized as set forth herein.

a. Defendants' interrogatories shall be answered by plaintiffs as set forth in the initial Case Management Order and plaintiffs shall serve the answers on all parties then appearing in the action.

(1) Form A, Part I (1 through 35) interrogatories shall be answered by every plaintiff. See *Attachment B*.

(2) Form A, Part I (36 through 56) interrogatories shall be answered on behalf of every deceased plaintiff. See *Attachment C*.

(3) Form A, Part II interrogatories shall be answered by every plaintiff. See *Attachment D*.

b. Plaintiffs' interrogatories shall be answered by all defendants and third party defendants as set forth in the Case Management Order with defendant or third party defendant serving the answers on all parties then appearing in the action.

(1) Form B, Group A interrogatories shall be answered by every defendant and third party defendant that contests personal jurisdiction. See *Attachment E*.

(2) Form B, Group B interrogatories shall be answered by every defendant and third party defendant. See *Attachment E*.

(3) Form B, Group C, interrogatories shall be answered by every defendant and third party defendant to the extent that a party has not previously answered interrogatories regarding the particular job site. See *Attachment E*.

2. Although the court has approved standardized interrogatories, motions addressed to said interrogatories will be permitted in individual cases.
3. Supplemental interrogatories will be permitted without leave of court as long as the supplemental interrogatories do not contain more than 20 questions including subparts. Only a party who has answered the form interrogatories may serve supplemental interrogatories.
4. The service of any additional interrogatories will be permitted only upon motion pursuant to *R. 1:6-2* and a showing of good cause.
5. At the time of answering Form A, Part I interrogatories, plaintiff shall identify all entities with which it has entered into a settlement, whether named as a defendant or not. Plaintiff is under a continuing obligation to supplement this disclosure.

C. Production of Documents

1. No party shall serve a notice to produce documents pursuant to *R. 4:18-1* until the party first shall have answered all outstanding standard interrogatories.
2. The notice to produce documents shall be served on the party to respond as well as on all other parties then appearing in the action. Failure to give proper notice to all parties may result in the imposition of sanctions and costs.
3. The notice to produce documents shall not demand the inspection of any document that must be furnished in answers to interrogatories, nor shall it require the producing party to prepare any document not already in existence or produce any document not under the control of the party or its attorney.
4. Any party receiving a copy of a notice to produce documents directed to another party may supplement such notice to produce documents by requiring the producing party to produce other specifically designated documents.
5. A response to the notice to produce documents shall be served on all parties then appearing by the responding party.
6. The date for production set forth in the notice to produce documents shall not be less than 60 days after service, unless otherwise ordered.

7. The place for production of documents shall be at the office of the attorney for the producing party unless otherwise agreed or ordered by the court.

D. Depositions

1. The parties may designate one or more independent court reporting services (“CRS”) to facilitate deposition scheduling. If a CRS is designated, Case Management Orders shall be sent to the CRS so that the CRS is aware of all pending deposition deadlines. Plaintiffs’ counsel shall provide the CRS with complete and accurate counsel lists for any case in which a deposition is to be scheduled. The deposition notice shall be transmitted to all counsel by the CRS. Any adjournment/rescheduling requests shall be directed to plaintiffs’ counsel who shall be responsible for communicating any adjournment or rescheduling to all counsel and the CRS. If plaintiffs’ counsel cancels a scheduled deposition, a good faith effort shall be made to substitute another plaintiff whose case involves the same defense firms.
2. All depositions shall be on at least 10 days’ notice and substitution of deponents shall be on at least 24 hours notice.
3. The CRS, in the deposition notice, shall designate, on a rotating basis, who will be lead counsel in taking the deposition as well as two alternates to lead counsel. The three designated counsel shall confer one day prior to the scheduled deposition date to confirm that one of their clients still is a named defendant and shall resolve any issues regarding the taking of the plaintiff’s deposition.
4. Unless otherwise authorized by the court or the Special Master or stipulated by the parties, the deposition of a plaintiff shall be limited to 1 day of 7 hours. If any defendant seeks to continue the deposition beyond such time period, all counsel attending the deposition shall confer for the purpose of reaching an agreement. If an agreement cannot be reached, counsel shall contact the Special Master to obtain a ruling prior to the conclusion of the deposition and, in consolidated groups, a ruling also can be sought from the Special Master at that time as to all other plaintiff depositions in the consolidated group.
5. Defendants and the Special Master are to be advised in writing if any plaintiff is not going to be produced for deposition and the reasons therefore immediately upon learning that such plaintiff will not be produced for the deposition.

E. Videotaped Depositions

A party wishing to perpetuate the testimony of his or her own client or that of another person by reason of the state of health of the client or witness shall follow the procedure set forth herein.

1. The attorney making an application for a videotaped deposition shall make the application within 2 weeks after receiving a medical report, hospital record, statement or any other communication that leads the attorney to believe that the client or witness may be unavailable at the time of trial. The videotaped deposition may be taken upon the submission to the Special Master of a proposed form of recommendation along with a certification that all answering parties have been served with the proposed form of recommendation. The Special Master will sign the recommendation unless an objection is received within 10 days of service of the proposed form of recommendation. If an objection is received, the Special Master may schedule a telephone conference.
2. The proposed form of recommendation shall indicate the date, time and place of the proposed videotaped deposition, which date shall not be sooner than 30 days from the submission of the proposed form of recommendation.
3. The proposed form of recommendation shall be accompanied by:
 - a. a copy of the medical report, hospital record, statement or other communication upon which the movant relies; and
 - b. the client's answers to standardized interrogatories, unless the application is made to preserve the testimony of a witness in which case any written statement given by the witness also shall be attached.
4. In exigent circumstances, a proposed form of recommendation may be submitted to the Special Master on 5 days' notice. A copy of the submission shall be served on all parties by hand delivery or facsimile, which service shall be certified to by counsel. In its submission to the Special Master, the proponent shall advise the Special Master of the reason why the submission is being made on 5 days' notice and whether any party has an objection to the relief. An objection must be submitted to the Special Master and served on all parties by hand delivery or facsimile within 3 days of the original submission, which service shall be certified to by counsel.

5. If a videotaped deposition is granted, any party desiring to take a discovery deposition of the witness shall do so prior to the date scheduled for the videotaped deposition.

VII. MOTION PRACTICE

A. General

1. Failure to comply with the following may result in the denial of the motion or consideration of the motion as though unopposed.
2. All motions shall indicate “**ASBESTOS MOTION**” in bold capital letters on the upper right hand corner of the cover letter to the clerk’s office. All motions shall also set forth:
 - (a) the date on which the answer was filed and
 - (b) the trial date.
3. One original motion shall be filed only. If an attorney requires a returned filed copy, a copy of the motion must be accompanied by a self-addressed, stamped envelope. Motions are not to be filed with the judge nor are courtesy copies of the motion to be sent to the judge, unless specifically requested by the judge.
4. An original and two copies of a proposed form of order along with a self-addressed, stamped envelope must be submitted with the motion. This shall be included with the motion but not be attached to the motion papers. The moving party shall serve the filed Order on all parties to the case no later than 7 days after the date of the Order.
5. A filed Order will not be returned to counsel unless a self-addressed, stamped envelope is submitted with the motion papers.
6. In consolidated actions, a proposed form of Order shall be submitted in connection with each plaintiff for or from whom the moving party is seeking relief.
7. The moving party may serve the motion on any party from whom the moving party is not seeking relief by e-mail, if that party has an e-mail address. The responding party may serve any party except the moving party by e-mail if that party has an e-mail address and this should be indicated in the proof of service.

8. Motions and other notices shall be filed in each individual case with the appropriate filing fee except that motions and other notices regarding the following issues may be filed in the general asbestos docket number without payment of a filing fee in each individual case:
 - a. Notice of bankruptcy filing;
 - b. Substitution of counsel;
 - c. Enforcement of settlement; and
 - d. Substituted Service.

A list of the individual cases shall be attached to the motion and to the Order along with sufficient copies of the Order for filing in each individual case file.

B. Summary Judgment Motions

1. The schedule for the filing of summary judgment motions shall be established in the Case Management Order.
2. A defendant filing a motion for summary judgment shall utilize the “Abbreviated Notice of Motion” form annexed hereto as Attachment F and shall submit a proposed form of Order in the form annexed hereto as Attachment G.
3. Briefs need not be submitted in support of or in opposition to summary judgment motions.
4. The motion papers shall have attached thereto:
 - (a) a copy of plaintiff’s answer(s) to Standard Interrogatories I.6 and I.7 and
 - (b) only the pages of plaintiff’s deposition relevant to the motion (or a certification that there was no relevant testimony). The papers shall not include a copy of the complaint or a copy of the full set of interrogatory answers or depositions unless necessary.
5. If the deadline for the filing of summary judgment motions as set forth in the Case Management Order or the trial list has expired, a motion for summary judgment may *not* be filed, except with permission of the Special Master. A party may request permission to file an untimely motion for summary judgment only by written request to the Special Master with a copy to plaintiff’s counsel.

6. If an untimely motion for summary judgment is sent for filing, the motion will be stamped received, but will *not* be filed. It will be returned, along with any fees paid, to the filing party.
7. If the Special Master allows the motion to be filed, the moving party shall confirm same in writing, with a copy to plaintiff's counsel and the clerk's office.
8. If the motion for summary judgment is granted in favor of a defendant against a plaintiff, the prevailing defendant may submit a proposed form of Order to the court dismissing all cross claims against it along with a certification of service on all parties. The Order shall be submitted on 10 days' notice to all parties and will be signed if no objection is received within the 10-day period. If an objection is received, the court will schedule a telephone conference or a motion, as is appropriate.

C. *In Limine Motions.* See Section XIII.B herein.

D. *Pro Hac Vice Motions*

1. *Pro hac vice* motions shall be made in accordance with R. 1:6-2 and in compliance with R. 1:21-3.
2. Such motions shall be heard without oral argument unless the motion is opposed or upon request of the court.
3. The Order shall include a provision that the admitted attorney cannot be designated as trial counsel.
4. The Order shall include a provision that there will be no delay in any proceedings and no adjournment requested by reason of the inability of the attorney admitted *pro hac vice* to be in attendance.
5. No more than 2 attorneys shall be admitted *pro hac vice* for any one party in any one case.
6. Attachment H sets forth the requirements for the affidavit in support of the *pro hac vice* motion and form of Order.

E. Short Notice Motions

Motions upon short notice may be filed only with the advance permission of the court.

F. Joinder in Motions

Parties who wish to join in a motion made by another party may do so by filing a notice of motion specifically identifying the motion that is being joined. The notice of motion shall be captioned as “Joinder Notice of Motion” (“JNM”). Such JNMs may rely on the papers filed on behalf of the moving party, but must be accompanied by a proposed form of Order and the appropriate filing fee. The JNM must be filed no later than 10 days before the return day of the motion. Any supplemental affidavits or memoranda in connection with the application must be filed at the same time.

G. Cross Motions

Motions designated as “Cross Motions” that do not address the original motion but which, instead, seek separate relief will not be accepted by the court for hearing on the return day of the original motion. Such a motion shall be treated as a new motion and will be automatically placed on the motion list for the applicable motion day.

H. Motion Adjournments

1. No request for the adjournment of a motion will be entertained after 4 p.m. of the Wednesday immediately preceding the motion (or the Tuesday before if the return date is a Thursday).
2. No request for an adjournment of a motion shall be considered unless the requesting party has made a good faith effort to discuss the adjournment request with the adversary. If the parties consent and the adjournment does not affect the trial date, the motion will be adjourned once. In all other circumstances, adjournment requests will be considered on a case-by-case basis.
3. A motion may not be adjourned beyond the listed trial date unless the Special Master or the court has adjourned the trial date.
4. All adjournments shall be confirmed in writing and shall include (a) the case name and docket number for both the group, if consolidated, and the

individual case, (b) the name of and counsel for the moving and responding party, and (c) the original motion date and the adjourned motion date.

I. Service of Motions

The service requirements of *R. 1:5-1(a)* will be strictly observed except as provided in Section VII.A.7 herein. All motion papers shall be served on all parties to the action even though relief is sought only against one of the parties.

J. Discovery Motions

Before a formal application for discovery may be made to the court pursuant to *R. 1:6-2*, counsel shall make an informal application for discovery to the Special Master as follows:

1. Informal Discovery Applications

The procedures set forth herein shall not apply to discovery issues arising out of orders entered by the court.

a. Date for Consideration

The Special Master shall consider informal discovery applications on motion days. All discovery applications shall be considered on the papers unless there is a written request for a conference or the Special Master otherwise requires.

b. At least 28 days prior to the date for consideration in connection with interrogatories and 16 days prior to the date for consideration for all other discovery issues, counsel shall submit a letter to the Special Master. The letter shall state the party from whom discovery is sought; the discovery sought; and the prior attempts made to resolve the matter. The letter shall include a summary of the relief sought and citation to any relevant court rule or case. Exhibits may be attached to the letter such as correspondence regarding the discovery, the discovery request at issue and other relevant information. A formal certification is not required. A copy shall be sent to the party from whom discovery is sought and all counsel in the case.

c. An original and two copies of a proposed form of "Recommendation of Special Master" shall be submitted with the informal discovery application. If necessary, an original and two

copies of a new form of “Recommendation of Special Master,” along with a self-addressed, stamped return envelope, shall be submitted under the five-day rule by the prevailing party after disposition of the application. Upon receipt of the signed “Recommendation of Special Master,” the prevailing party shall forward a copy to all other parties.

d. Responses and Joinders

Responses and/or joinders shall be submitted to the Special Master 8 days prior to the date for consideration. A joinder shall not expand the discovery request made in the application. The joining party shall state prior attempts made to resolve the matter unless the requested discovery was the subject of a case management order.

e. Recommendation by the Special Master

The Special Master shall issue a written recommendation that shall set forth the basis for the recommendation. If the recommendation of the Special Master orders that discovery be provided by a certain date, and the recommendation has not been appealed, the recommendation shall include a provision that the party to whom the discovery is owed may apply to the Special Master for sanctions.

f. Sanctions Application

The sanctions application shall be served on all parties in accordance with *R. 1:5-1*. The sanctions application shall be by letter to the Special Master, shall set forth the specific sanctions sought and shall request that a supplemental recommendation of the Special Master be signed no less than 5 days after submission of the application. Any response shall be submitted and served upon all parties no less than 2 days after service of the sanctions application. Unless otherwise requested by the Special Master, the sanctions application shall be heard on the papers.

g. An original and two copies of a proposed form of “Supplemental Recommendation of Special Master” shall be submitted with the sanctions application. If necessary, an original and two copies of a new form of “Supplemental Recommendation of Special Master,” along with a self-addressed, stamped return envelope, shall be submitted under the five-day rule by the prevailing party after disposition of the application. Upon receipt of the signed

“Supplemental Recommendation of Special Master” the prevailing party shall forward a copy to all other parties.

h. Appeal

Within 10 days of the receipt of the recommendation or supplemental recommendation of the Special Master, any party who participated, in writing, in the discovery or Sanctions Application may appeal the recommendation or supplemental recommendation of the Special Master to the court. The appeal shall be filed as a motion in accordance with R. 1:6-2(c).

i. Upon the expiration of the 10-day appeal period, the recommendation will be filed and will operate as a court Order.

j. Interrogatory Motions

The moving party must attach copies of the interrogatories and interrogatory answers in question only to the motion papers filed with the court.

k. Motions Regarding Standard Interrogatories

1. The application shall be deemed to have been made on behalf of all direct parties and third parties who have appeared in the action and who have been served with the standard interrogatory answers.
2. The application shall be served on all parties to the action. Any party may file additional requests that interrogatories other than those stated in the original application be addressed. Such requests shall be served no later than 21 days before the return date of the application.
3. Any response to the application shall be served and submitted no later than 14 days prior to the return date of the application. Any replies to the responses shall be served and submitted no later than 7 days prior to the return date.
4. Any recommendation of the Special Master or Order entered shall be enforceable by any party in the action.

VIII. DEFENSE MEDICAL COUNSEL

- A. Any defendant wishing to present a medical defense shall advise all counsel of its intention by the attorney retained to represent it on the medical defense by filing a Notice of Appearance on or before a date set by the Special Master. The Notice of Appearance shall be entitled “Notice of Appearance of Defense Medical Counsel” (“Appearance”). *See Attachment I.* Any defendant who does not advise of its intention to present a medical defense by the filing of an Appearance by this date may be foreclosed from asserting a medical defense, except that the Appearance may be amended to include other defendants at any time as long as at least one non-settling defendant remains on the Appearance.
- B. Any defendant may retain counsel representing it solely on its medical defense. Defendants may agree to retain the same medical defense counsel.
- C. Plaintiff shall be subject to only one defense medical examination absent a showing of good cause. The Special Master shall set the date by which the defense medical examination must be completed. If the defendants asserting a medical defense cannot agree to the identity of the expert conducting the examination, defendants shall present the issue to the Special Master for disposition pursuant to Section VII.J herein.
- D. Plaintiff shall arrange for the transfer of pathology specimens, records, x-rays and, if necessary, medical authorizations in the form annexed hereto as Attachment J by a date to be set by the Special Master.
- E. No destructive testing of pathologic tissue specimens shall be undertaken without notice to plaintiff’s attorney and all other defendants asserting a medical defense. If there is an objection, such testing shall not proceed without court Order. Where original x-rays and pathologic specimens are delivered for review by defense experts, said x-rays and specimens shall be returned to the place from which they were taken within 10 days of the date of the examining expert’s report. Proof of return shall be maintained by the defense counsel having received such x-rays or specimens.
- F. It often is necessary for plaintiffs and defendants to obtain for expert review, original x-rays and pathology material, including tissue blocks, in alleged asbestos-related malignancy cases and it often is not convenient to compel the medical experts for plaintiffs and defendants to travel to and examine the records at the medical facility. Because it often is the policy of medical facilities that such materials not be released, upon written request, the court will sign an Order in the form annexed hereto as Attachment K to facilitate the release of such materials.

- G. Defense medical counsel shall have the authority to participate at depositions and trial, including the presentation of an opening and closing statement as well as direct and cross examination of witnesses, concerning medical issues, on behalf of the defendant(s) identified in the Appearance or any amendment thereto. The defendant(s) on whose behalf a defense medical counsel appears, however, may participate at the depositions of plaintiffs and at trial, including the presentation of any opening and closing statement as well as direct and cross examination of witnesses, concerning non-medical issues.
- H. Defense medical counsel shall have the authority to file and argue statute of limitations motions in accordance with deadlines set forth in the Case Management Order and to appear at *Lopez* hearings on behalf of defendants identified in the Appearance and any amendment thereto.

IX. MEDICAL EXPERT REPORTS

A. Plaintiff's Medical Expert Reports

- 1. Plaintiff shall serve either (1) executed medical authorizations or (2) a demand for submission of specific medical authorizations to be prepared with its answers to Part I Standardized Interrogatories.
- 2. Plaintiff shall execute and serve authorizations prepared by defense counsel within 30 days of receipt or as otherwise ordered.
- 3. Plaintiff shall serve its medical expert report as directed at the Case Management Conference.

B. Defendant's Medical Expert Reports

- 1. If plaintiff demands submission of prepared authorizations, then they shall be submitted to plaintiffs' counsel within 30 days of the demand for it or as otherwise ordered.
- 2. Defendant(s) shall serve a defense medical report as directed in the Case Management Order.

- C. A schedule for summary judgment motions based on expert medical reports, if necessary, shall be established in the Case Management Order.

X. LIABILITY EXPERT REPORTS

- A. Liability expert reports shall be due as set forth in the Case Management Order.
- B. A schedule for summary judgment motions based on expert liability reports, if necessary, shall be established in the Case Management Order.

XI. EXPERT REPORTS GENERALLY

If any party intends to rely upon expert testimony, but does not submit an expert report, that party is required to provide a certified statement of the expert's opinion and the facts upon which the expert will rely and to produce all documents upon which the expert will rely.

XII. CONFERENCES

A. Initial Case Management Conferences

1. Plaintiffs' counsel shall advise the Special Master twice annually, in writing, no later than June 1 and December 1 of each year, of its inventory of cases that have not already been scheduled for trial. Such inventory shall include an identification of all cases that are consolidated or that plaintiffs' counsel believes should be consolidated. Plaintiffs' counsel further shall advise the Special Master of the name of each answering defendant and the name, address and telephone number of its counsel, as well as the name of each defendant that has not answered.
2. The Special Master shall issue a schedule of Initial Case Management Conferences to take place twice annually for all cases that will be on the trial list for the first time.
3. The purpose of the initial case management conference is to schedule all fact and expert discovery, motion deadlines, case management conferences, settlement conferences and a trial date and to generally address any other procedural issues.
4. Plaintiffs' counsel shall attend the Initial Case Management Conference. If counsel for a defendant does not attend the Initial Case Management Conference, said defendant shall be bound by the provisions of the case management order and shall have no right to appeal the terms of it.

5. A Case Management Order, in the form annexed hereto as Attachment L will be entered as a result of the initial case management conference.
6. The Special Master may, in her discretion or upon request of any party, schedule a status, case management or settlement conference at any time during the pendency of the litigation.

B. Court Conferences

The court may, in its discretion or upon application of any party, schedule a status or settlement conference during the pendency of the litigation. In cases where a conference is scheduled by the court, a representative of each party must attend the conference, unless the court otherwise allows.

C. Settlement Conferences

Counsel for all parties must attend any settlement conference. If counsel for a party does not attend, that party's pleading may be dismissed or stricken and default may be entered against the party.

1. At least 30 days before the first settlement conference, or as set forth in the Case Management Order, plaintiff shall serve each defendant with a settlement demand.
2. Clients shall attend, or be available by telephone for, settlement conferences.

XIII. TRIAL ISSUES

A. Punitive Damages

For the purpose of trial, punitive damage claims shall be severed from the trial of all other claims.

B. In Limine Motions

A schedule for *in limine* motions will be set in the Case Management Order.

C. Election of Cause of Action

1. In each case involving claims of product defect due to an absence of a warning, plaintiff shall elect whether to proceed with strict liability compensatory damage claims under *Beshada v. Johns-Manville*, 90 N.J. 191 (1982) (“*Beshada*”). In the event that plaintiff elects to proceed under *Beshada*, evidence offered either by plaintiff or by defendant on the issue of defendant’s actual or imputed knowledge of the potential hazards of asbestos-containing products shall not be admitted.
2. In the event that plaintiff does not elect to proceed under *Beshada*, otherwise admissible evidence offered by plaintiff and by defendant with respect to defendant’s actual or imputed knowledge of the potential hazards of asbestos-containing products shall be admitted and, as to such claims, the jury will be instructed in a manner consistent with *Feldman v. Lederle Laboratories*, 97 N.J. 429 (1984)(“*Feldman*”).
3. In each case involving claims of product defect due to an inadequate warning, otherwise admissible evidence by plaintiff and by defendant on risk-utility issues (including defendant’s actual or imputed knowledge of the potential hazards of asbestos-containing products) shall be admitted and, as to such claims, the jury will be instructed in a manner consistent with *Feldman*.
4. Plaintiff shall make the election whether or not to proceed under *Beshada* at least 90 days before the first scheduled trial date. All defendants shall be notified of the election in writing.

D. Voir Dire Questions

1. Upon the approval of standard *voir dire* questions, the parties shall confer as to any revisions or additions to same. On the scheduled trial date, the parties shall advise the court of any disputes regarding the *voir dire* questions with a statement as to the position of each as to the disputed *voir dire* questions.
2. Until the approval of standard *voir dire* questions, the parties shall confer as to the *voir dire* questions to be asked. On the scheduled trial date, the parties shall present the court with the *voir dire* questions to which they have agreed and shall advise the court of any *voir dire* questions to which they have not agreed with a statement as to the position of each as to the disputed *voir dire* questions.

E. Jury Charges

1. Upon the approval of standard jury charges, the parties shall confer as to which jury charges are appropriate and any revision or additions to same. At least 48 hours before the conclusion of the presentation of evidence, the parties shall advise the court of any disputes regarding the jury charges with a statement as to the position of each as to the disputed jury charges.
2. Until the approval of standard jury charges, the parties shall confer as to the jury charges to be given. At least 48 hours before the conclusion of the presentation of the evidence or as otherwise directed by the court, the parties shall present the court with the jury charges to which they have agreed and shall advise the court of any jury instructions to which they have not agreed with a statement as to the position of each as to the disputed jury charges.

XIV. MISCELLANEOUS

- A. All pleadings shall indicate “**ASBESTOS LITIGATION**” in bold capital letters on the right side of the pleading.
- B. If, when filing any pleading, including motion papers, counsel requests that a filed copy of the pleading be returned, counsel shall submit an original and one copy of the pleading with a self-addressed, stamped envelope.
- C. No pleading, including motion papers, shall be sent for filing to the judge.
- D. Any Order entered by the court that conflicts with this General Order shall supersede the General Order.

XV. APPLICABILITY OF THIS ORDER

- A. This Order shall take effect on _____, 200__.
- B. The *Rules Governing the Courts of the State of New Jersey* will apply to all asbestos litigation except where such rules conflict with the terms of this Order.

ANN G. McCORMICK, J.S.C.

FIRM NAME ADDRESS TELE. NO. ATTORNEY FOR	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY DOCKET NO. L- AS
_____ Plaintiff, v. _____ Defendants.	Civil Action PLAINTIFF'S INITIAL FACT SHEET

1. Full Name:
2. Date of Birth:
3. Address:
4. Union/Local/Years of Membership:
5. Date of first claimed asbestos exposure:
6. Date of last claimed asbestos exposure:
7. Smoking History:
8. State the inclusive dates of smoking history, the products smoked and the amount of product consumed per day:
 - a. Dates:
 - b. Products smoked:
 - c. Amount per day:

9. Provide as much of the following information as is presently available: work sites, inclusive dates and trade or occupation for each site.

WORK SITES	DATES	TRADE/OCCUPATION

10. State the claimed asbestos related diseases; including the date of diagnosis and the name of the diagnosing physician or institution (if available attach a copy of the medical report).

- a. Disease:
- b. Date of diagnosis:
- c. Doctor/Institution:

Dated:

LAW FIRM
Attorneys for Plaintiff

Plaintiffs Form AI Interrogatories (1-35)

- I. 1. State your full name, address and telephone number, date of birth, educational background and social security number.

- I. 2. State the complete address of all places you have resided since birth giving the inclusive dates of residence for each place named and as to each state:
 - a. fuel use for heating and cooking;
 - b. significant home improvements (e.g., additions, re-insulation, re-wiring, etc.);
 - c. number of family units co-occupying said structure.

- I. 3. Are you married or single. If you are married, set forth:
 - a. your maiden name or the maiden name of your spouse;
 - b. give the date and place of marriage.

- I. 4. Did you ever serve in the armed forces of the United States? If so, state which service (Army, Navy, etc.), the branch of that service, your service identification number, the years of service, type of discharge and, if a medical discharge, attach a copy hereto and set forth the medical reasons.

- I. 5. If you are now or have you ever been, a member of a trade or labor union, provide the following information:
 - a. the name of the union or unions to which you have belonged;
 - b. the inclusive dates of your membership in each;
 - c. the numbers and complete address of the local unions to which you have belonged;
 - d. all officers or other positions which you have held in each union, identifying the office, position, and union in which held and inclusive dates the position or office was held.

- I. 6. Identify all jobs and projects on which you worked with or around asbestos or materials containing asbestos and state separately as to each job or project the following:
- a. the name and location of each job (stating the plant site, city, county and state);
 - b. the name and address of each employer for whom you worked;
 - c. the beginning and ending dates of each job or project;
 - d. the name and manufacturer of each and every product containing asbestos with which you worked or to which you were exposed on each particular job or project and a general description of each such product;
 - e. the identity of your immediate superior or job superintendent on each such job or project;
 - f. the identity of all persons with whom you worked on each such job or project;
 - g. the approximate length of time that you worked on each such job or project;
 - h. whether or not you wore a respirator or mask on each such job or project;
 - i. your specific duties on each job.
- I. 7. As to each exposure to each product listed in the answer to the immediately preceding interrogatory, describe by name or other description the persons or documents which you claim will establish the fact of your exposure to the product. For each witness listed, state the witness's complete name, job title or capacity, employer, address and telephone number. For each document listed, state a description of the document, its contents and the name, address and telephone number of the custodian of the document.
- I. 8. Have you at any time during your life ever used any device to reduce your possible exposure to, or inhalation of, asbestos dust or fiber? If your answer is affirmative, please state for each such device:
- a. make, model and type;
 - b. from whom received;

- c. company or employer requirements regarding use of such device;
- d. name, address, phone number of document title, date and description of the source of such requirement(s) or recommendation(s);
- e. date and time of each period of use of such device;
- f. if you will do so without a motion to produce, please attach a copy of each writing which evidences the requirements or recommendations referred to in subparts (c) and (d) on this interrogatory.

I. 9. Identify the disease or injuries for which claim is made by you in the above-captioned complaint, and as to such disease or injury provide the following information:

- a. a description of the symptoms of the disease or injury;
- b. the date you first experienced any of the above symptoms of the disease or injury described above;
- c. the name and address of each doctor or other practitioner of the healing arts who has either examined or treated you for the disease or injury described above and the dates of such treatment or examination;
- d. the treatment provided by each doctor or other practitioner of the healing arts for the disease or injury identified above.

I. 10. State the date of the diagnosis made by any physician or other practitioner of the healing arts of the disease or injury which you set forth in your answer to interrogatory 9 and identify the individual making such diagnosis.

I. 11. State the date you learned of the diagnosis of such disease or injury.

I. 12. If you have received any treatment with respect to the disease or injury set forth in your answer to interrogatory 9, state:

- a. The name and address of each hospital, clinic or other medical facility at which you were treated or admitted;

- b. The dates on which said treatment or treatments were rendered, including the dates of entry into and discharge from said hospitals, clinics or other medical facility.
- I. 13. Identify each physician or other practitioner of the healing arts not previously identified herein who has examined or treated you for any reason and for each such individual so identified provide the following information:
 - a. The reason for such examination or treatment;
 - b. The date of each examination or treatment;
 - c. The diagnosis resulting from each such examination or treatment.
- I. 14. Identify each hospital, clinic or other medical facility not previously identified herein at which you have been examined or received medical treatment and for each such facility identified provide the following information:
 - a. The reason for such examination or treatment;
 - b. The date of each such examination or treatment;
 - c. If you were an inpatient, the dates of admission to and discharge from such hospital, clinic or medical facility;
 - d. The diagnosis resulting from each such examination or treatment.
- I. 15. If you are currently receiving medical services or treatment for any nature whatsoever, states:
 - a. The name or names of the persons or persons attending you;
 - b. The approximate frequency of said treatment of services;
 - c. The date you last received said treatment or services.
- I. 16. If you have ever had x-rays taken of your chest, provide the following information for each set of x-rays taken:
 - a. The name and address of the office or hospital where the x-rays were taken;
 - b. The reason why such x-rays were taken;
 - c. The date or dates on which the x-rays were taken;

- d. The information reported to you as being the x-ray diagnosis;
 - e. The identity of the person or persons who took the x-ray and the person or persons who made the diagnosis.
- I. 17. If you have filed any claim with the Social Security Administration as a result of any injuries or disease, provide the following information:
- a. The date you filed said claim;
 - b. The nature of such claim;
 - c. The date upon which you first received any benefits, either for disability or for medical treatment;
 - d. The amount of benefits you are receiving and the frequency with which you receive these benefits.
- I. 18. Have you ever been convicted of a crime? If so, state the following:
- a. The date of each arrest;
 - b. The nature of each alleged offense;
 - c. The place of each arrest;
 - d. The outcome of each charge, indicating whether you were convicted or plead guilty;
 - e. The court where the matter was heard and date of the hearing.
- I. 19. Do you or your counsel have written reports from any physician or practitioner of the healing arts respecting any injuries or diseases which you have identified in your response to these interrogatories? If so, please attach a copy of said report to your answers to these interrogatories.
- I. 20. As to any job or jobs on which you allege you were injuriously exposed to asbestos containing materials, was there any company other than your employer installing asbestos containing material at the same job site? If so, please identify each job, its location, the approximate dates on which you worked on that job and the other company.

- I. 21. Do you now, or have you ever, chewed, smoked, consumed, or otherwise used tobacco products? If so, please state:
- a. The type or types of products (i.e., cigarettes, cigars, etc.);
 - b. The brand name of each product listed above; (indicate whether filtered or non-filtered as to each brand);
 - c. The inclusive dates of use of each product listed above;
 - d. The frequency of use or amount of use (i.e. one pack a day, etc.).
- I. 22. Are you aware of the United States Surgeon General's warning placed on all cigarette packages and advertisements?
- I. 23. Have you ever read the warning referred to in interrogatory I.22?
- I. 24. Have you ever smoked cigarettes subsequent to being aware of or reading the warning referred to in interrogatory I.22?
- I. 25. Have you ever smoked tobacco products other than cigarettes subsequent to being aware of or reading the warning referred to in interrogatory I.22?
- I. 26. State the names and current addresses of all persons who have knowledge of any relevant facts relating to this case.
- I. 27. Did you ever file a Workmen's Compensation claim for any or all of the injuries claimed in this action? If so, state:
- a. The claim petition number;
 - b. The name and address of the Workmen's Compensation insurance company and its file number;

- c. The terms of final judgment, if concluded;
- d. Attach hereto copies of all reports of all doctors who examined or treated you with regard to these claims;
- e. Attach copies of the Claim Petition and Answer in said proceedings and copy of the Judgment, Order Approving Settlement, Order of Discontinuance, and/or any other Order of the Court disposing of the Workman's Compensation Petition;
- f. The name and address of the attorney who represented you in that proceeding.

I. 28. Did you file a Workmen's Compensation claim at any time for any reason for any condition and/or injury other than those mentioned in the foregoing interrogatory? If so, state:

- a. The claim petition number;
- b. The name and address of the Workmen's Compensation insurance company and its file number;
- c. The terms of final judgment, if concluded;
- d. Attach hereto copies of all reports of all doctors who examined or treated you with regard to these claims;
- e. Attach copies of the Claim Petition and Answer in said proceedings and copy of the Judgment, Order Approving Settlement, Order of Discontinuance, and/or any other Order of the Court disposing of the Workmen's Compensation Petition;
- f. The name and address of the attorney who represented you in that proceeding.

I. 29. Give a complete history of your employment including:

- a. The date you were hired;
- b. The name of each department and each plant in which you worked during your employment, giving the inclusive dates you worked in each;
- c. A detailed description of your duties in each of said departments;

- d. Whether there was any exposure by you during the aforementioned periods of employment to any dust, fumes or other conditions;
 - e. If so, set forth in detail the nature of the exposure;
 - f. The date your employment was terminated and the reasons therefor.
- I. 30. Are you presently receiving any form of benefits under any insurance policy or policies, retirement program or programs, pensions, social security or from any person, firm, corporation, governmental body or agency? If so, set forth full details in regard thereto.
- I. 31. Give the exact date upon which you became aware that those symptoms referred to in answers to interrogatories I.9 and I.11 were caused by the alleged acts of any party to this law suit. Please respond separately as to each party so named by you. If advised by another of said cause, set forth the name and correct address of that person.
- I. 32. If you were employed at the time the symptom, injury and/or condition complained of in the present action manifested itself, state as to each date of manifestation of symptom, injury and/or condition the following:
- a. The name and address of the employer;
 - b. The position held and nature of work performed;
 - c. Your average weekly wages for the previous year;
 - d. The period of time lost from employment, if any, giving dates;
 - e. The amount of wages lost, if any;
 - f. Attach W-2 forms or I.R.S. returns for the last five (5) years.
- I. 33. If there has been a return to employment or occupation, state:
- a. The name and address of present employer;
 - b. Position held and nature of work performed;
 - c. Present weekly wages, earnings, income or profit.

I. 34. Itemize any and all moneys expended or expenses incurred for hospitals, doctors, nurses, x-rays, medicines, care and appliances and state the name and address of each payee and the amount paid or owed each payee.

I. 35. Itemize any and all other losses or expenses incurred not otherwise set forth.

Plaintiffs Form AI Interrogatories (35-56)

- I. 36. Did decedent die testate? If decedent died testate kindly attach to these answers to interrogatories a copy of his/her LAST WILL and TESTAMENT and state the date and the name of the County in which said Will was submitted for probate.
- I. 37. Did decedent die intestate? If decedent died intestate kindly attach a copy of the Certificate appointing plaintiff as Administrator/Administratrix ad Prosequendum of the Estate concerned in the within matter.
- I. 38. Attached the Certificate appointing plaintiff General Administrator/Administratrix of the Goods, Chattels Rights and Credits of the Estate concerned in this matter.
- I. 39. Attach a copy of the Death Certificate as to the decedent.
- I. 40. Please set forth decedent's:
- a. full name;
 - b. date and place of birth;
 - c. date and place of death.
- I. 41. If decedent was ever known by any other name, set forth said other name or names and the periods of time during which it was used.
- I. 42. If decedent was married at the time of his/her death, set forth:
- a. date and place of said marriage;
 - b. maiden name of spouse.
- I. 43. With whom did decedent reside at the time of his/her death?

- I. 44. Did decedent have any children?
- I. 45. Set forth the name, age and address of each and every one of decedent's children.
- I. 46. Set forth decedent's Social Security number.
- I. 47. Set forth with particularity and in detail:
- a. the amount expended by decedent on his/her behalf for his/her support and maintenance during the year preceding the date of death indicated:
 - 1. rent, mortgage payments or other costs of shelter;
 - 2. food;
 - 3. clothing;
 - 4. operation, maintenance and insurance on automobile owned by decedent;
 - b. laundry and dry cleaning;
 - c. other expenditures for decedent in excess of \$100.00; itemizing same.
- If based on records of decedent, state the name and address of the person having custody of same.
- I. 48. Set forth all debts of the decedent which remained unpaid at his death, indicating the name and address of the person to whom owed, the date on which the original debt was incurred and the amount thereof and the present balance to the creditor.
- I. 49. Which next of kin plaintiff claims were dependent upon decedent at his death, if any.

- I. 50. If any of the next of kin of decedent are claimed to have been dependent upon the decedent at his death, set forth the nature of the benefits which the person or persons dependent upon the decedent received in each of the five years preceding the date of death, and the pecuniary value of the benefits received in each year.
- I. 51. If any of the next of kin of decedent are claimed to have been dependent upon the decedent at his death, set forth the gross annual income reported by said dependent on his Federal Income Tax Return for each year in which he claims to have been dependent upon decedent in whole or in part and the name and address of the person or persons having possession of copies of paid returns.
- I. 52. Was the decedent the recipient of any gifts of money or payment in the nature of support of decedent during the five year period preceding the date of death? If so, set forth the name of the person making said gifts or payments, the date of same, the amount of each gift or payment and the purpose therefore.
- I. 53. Was the decedent receiving Social Security Unemployment Compensation Disability Benefits, public or private pension payments, or any form of public welfare or assistance payments in the five years preceding his death? If so, set forth the nature of the payments made, the amount of the same and the agency or person paying the same to decedent.
- I. 54. Did the decedent have any physical or mental defect or disability in the year preceding his death? If so, describe the nature thereof, whether or not it disabled the decedent and set forth the names and addresses of all hospitals, institutions, physicians or other persons administering medical or other assistance to decedent for said condition.
- I. 55. Set forth with particularity all pecuniary benefits received by the next of kin from decedent to date of death and the nature of all future pecuniary expectation of which the next of kin were allegedly deprived of by the death of decedent.
- I. 56. Set forth the age of decedent at the date of death, the general condition of his health and the names and addresses of all physicians who examined or treated decedent or were consulted by decedent in the year preceding decedent's death and the purpose thereof.

Plaintiffs Form A II Interrogatories

- II. 1. Set forth the name and current address of each proposed expert witness whom you expect to call at trial, and as to each:
- (a) state the subject matter on which the expert is expected to testify;
 - (b) state the substance of the facts and opinions to which the expert is expected to testify;
 - (c) state a summary of the grounds for each opinion;
 - (d) attach true and exact copies of the entire report or reports rendered by him;
 - (e) set forth completely the substance of all oral reports.
- II. 2. Set forth each and every fact and identify each and every document upon which you base your contention that each defendant or its predecessor in interest supplied raw asbestos fiber or asbestos-containing products to any location at which plaintiffs (or plaintiffs' decedent) was employed and attach copies of said documents. If you rely on depositions taken in, or testimony given in other cases, set forth the name of the person deposed or testifying, the date of the deposition or testimony, the name of the case, the docket number, the court in which the action is pending and the name and address of the court reporter or, in the alternative, attach copies of the transcript of the deposition(s) or testimony.
- II. 3. Set forth whether you have obtained a statement from any person, firm or corporation, their agents, servants, representatives or employees, relevant to the subject matter of this litigation.
- II. 4. If the answer to the preceding interrogatory II.4 is affirmative, state:
- (a) the name and current address of the person who gave the statement and the date the statement was obtained;
 - (b) if written, whether signed by that person;
 - (c) if oral, the name and current address of the person who obtained the statement, and if recorded, the nature and present location of the recording.

- II. 5. Set forth in detail and with particularity each and every warning which you contend that any party to this lawsuit should have conveyed to you with regard to each and every product referred to in interrogatory I.7 of Part I of these interrogatories.
- II. 6. Set forth in detail and with particularity the means by which any party to this lawsuit should have conveyed to you those warnings referred to in the preceding interrogatory.
- II. 7. Do you contend that the manufacture, sale and/or distribution of the product manufactured by any party in this lawsuit, referred to and complained of in the complaint did not comply with the requirements of any statute, ordinance, regulation or other officially enacted requirement in force at the time said defendant manufactured, sold and/or distributed the product, and if you do, identify specifically what each statute, ordinance, regulation or other officially enacted requirement was, and in what way the actions by that defendant did not comply.
- II. 8. Set forth in detail and with particularity the basis for each and every allegation you make that any party in this lawsuit is liable for the injury or condition and damages complained of, and enumerate each and every fact you contend supports each and every allegation contained in the within complaint.
- II. 9. Do you contend that any party to this lawsuit is liable for the injury or condition and damages complained of by reason of its failure to comply with any applicable standard? If so, state:
- (a) what the standard(s) is;
 - (b) the exact reference thereto by title, author, publisher, edition and date;
 - (c) whether it is contained in statute, ordinance, or administrative regulation, and if so, give the exact citation thereof.
- II. 10. Do you contend that any party to this lawsuit is liable for injury, condition or damages complained of by you because of anything that was written on any labeling, packaging, circular, brochure, or other form of printed material prepared by any party to this lawsuit that accompanied or related to the product or substance manufactured, mined, sold and/or distributed by any party to this lawsuit? If so, set forth in detail and with particularity each and every such writing upon which you base your allegations.

- II. 11. Do you contend that any party to this lawsuit is liable for injury, condition or damages complained of by you because of anything that was written on any labeling, packaging, circular, brochure, or other form of printed material prepared by any party to this lawsuit that accompanied or related to the product or substance manufactured, mined, sold and/or distributed by any party to this lawsuit? If so, set forth in detail and with particularity the information which should have been contained on any such writing.
- II. 12. Do you contend that there was negligence in the manufacture, sale and/or distribution of the product and/or substance manufactured by any party to this lawsuit, as referred to in the complaint, and that said negligence was the proximate cause of the injury, condition or damage complained of? If yes, please respond separately as to each party to this lawsuit.
- II. 13. If the answer to the above interrogatory is in the affirmative, set forth in detail and with particularity each and every fact which constitutes an act or failure to act that you allege to be such negligent conduct. Please respond separately as to each party to this lawsuit against whom you assert said allegations.
- II. 14. If the answer to interrogatory II.13 above is in the affirmative, state in precise terms exactly what device, method, scheme, plan or other means you think should have been employed by any party to this lawsuit to have avoided exposing you to the risk of injury. Please respond separately as to each party to this lawsuit against whom you assert said allegations.
- II. 15. Do you contend that any party to this law suit impliedly warranted any and all of the products and/or substances referred to in the complaint?
- II. 16. If the answer to the above interrogatory is in the affirmative, set forth in detail and with particularity with respect to any party to this lawsuit against whom said allegation is made, each and every fact upon which you will rely to support your allegation that said party impliedly warranted the fitness and/or merchantability of any and all products and/or substances complained of.
- II. 17. Do you contend that any implied warranty relating to the products and/or substances allegedly manufactured, mined, sold and/or distributed by any party to this lawsuit arises by operation of law?

- II. 18. If the answer to the above interrogatory is in the affirmative, set forth in detail and with particularity with respect to any party to this lawsuit against whom said allegation is made, each such law, or if applicable, a citation of the statute, rule or regulation where such law may be found.
- II. 19. Do you contend that any party to this lawsuit made any express warranties with regard to any product and/or substance which it mined, manufactured, sold, distributed and/or applied? If so:
- a. attach each and every copy of any and all such express warranties;
 - b. if such documents are not available, set forth in detail and with particularity the substance of each and every such express warranty;
 - c. state the name and address of each and every person who allegedly made any express warranties referred to in the within complaint;
 - d. state the name and address of the person to whom each such express warranty was made;
 - e. if such document was a newspaper or news magazine, state the name, publisher, frequency of publication and date of publication of such warranty;
 - f. state date and manner in which you first learned of the substance of said warranties;
 - g. state precisely in what manner you altered your behavior as a result of said warranties.
- II. 20. Do you contend that the product and/or substance allegedly mined, manufactured, sold, distributed and/or applied by any party to this lawsuit, was unfit for its intended use? If so, state for each product and/or substance:
- a. the product's and/or substance's intended use;
 - b. the manner in which the product and/or substance was allegedly unfit for its intended use;
 - c. identify each and every document which specifically illustrates or in any other way defines the intended use of each and every such product and/or substance and attach copies of said documents hereto.

- II. 21. If the complaint seeks punitive damages against one or more defendants state in detail as to each said defendant the facts upon which you will rely in asserting said claim.
- II. 22. Do you allege that during the period of time plaintiff (plaintiff's decedent) was exposed to any party's asbestos or asbestos containing product, the risk of using that asbestos or asbestos containing product outweighed the utility of the product? If so, enumerate separately as to each party's asbestos or product:
- a. each and every fact which supports this allegation;
 - b. the names and addresses of all individuals with knowledge of these facts;
 - c. supply the names and reports of all experts who plaintiff expects to testify in support of this allegation.
- II. 23. Do you allege that at the time of exposure there was an available substitute for asbestos or asbestos products which would meet the same needs of the public and would not be harmful? If so:
- a. enumerate specifically each and every product which would be available as a substitute;
 - b. state the date of availability;
 - c. the manufacturer or supplier;
 - d. state specifically the date relied upon that shows the product would be safe.
- II. 24. Is it your contention that defendants conspired to intentionally suppress, deprive or withhold medical or scientific information from the plaintiff regarding the health hazards of exposure to asbestos and/or asbestos containing products?
- II. 25. If your answer to the foregoing interrogatory is in the affirmative, set forth in detail and with particularity as to each defendant the following:
- a. the parties with whom each defendant allegedly conspired;
 - b. the date upon which the defendants so conspired;

- c. each and every fact upon which you base your allegation that the defendants so conspired;
- d. the specific medical or scientific information which the defendants allegedly suppressed, deprived or withheld from the plaintiff and the dates said information became known to the defendants;
- e. the names and addresses of any and all persons who participated in the alleged withholding, suppressing or depriving the plaintiff of medical and/or scientific information regarding the potential health hazards to persons exposed to asbestos and/or asbestos containing products.

II. 26. Set forth in detail and with particularity each and every letter, memoranda, report, publication, deposition transcript and any other document which the plaintiff will offer to prove that any of the defendants conspired to intentionally suppress, deprive or withhold medical information from the plaintiff regarding the health hazards of exposure to asbestos and/or asbestos containing products. Identify each defendant against whom such a claim is made.

II. 27. Set forth the names and addresses of any and all persons having knowledge of the facts relevant to the plaintiff's allegation that any of the defendants conspired to intentionally suppress, deprive or withhold medical information from the plaintiff regarding the health hazards of exposure to asbestos and/or asbestos containing products.

Defendants Interrogatories Form B

To be answered by all defendant and third party defendant miners, manufacturers, suppliers and installers of asbestos or asbestos containing products in all cases except in Johns-Manville plant worker cases where Johns-Manville defendants will answer a separate set of interrogatories.

Instructions

- Group A: Questions need not be answered unless defendant has raised a jurisdictional defense in its answers and intends to press said defense in accordance with *R. 4:6-3*.
- Group B: Questions in this group have time limits imposed concerning the scope.
- Group C: Questions in this group have time limits imposed concerning the scope of the information sought. The time reference is two years before plaintiff's earliest employment as alleged in the complaint up to the date of termination as alleged in the complaint. Where the complaint names more than one plaintiff the time reference is two years before the earliest date of employment by any plaintiff and the latest date of termination as to any such plaintiff.

Where reference is made in the question to plaintiff's employer, defendant is instructed to refer to the complaint for an identification of plaintiff's employer.

Answers to interrogatories in this form shall be provided and served within 120 days of the date of demand.

- A.1. Where is defendant's corporate headquarters located?
- A.2. Set forth the state in which defendant is incorporated in and the date of its incorporation there.
- A.3. Has defendant ever been incorporated under the law of the State of New Jersey? If so, set forth the inclusive dates the defendant was incorporated here.
- A.4. Has defendant ever maintained an office in the State of New Jersey? If so, indicate where this office was located and set forth the inclusive dates of its operation here and describe what function it served. In addition, set forth names, addresses and job positions of the individuals who staffed the office.
- a. Describe the type of business defendant did in New Jersey.

A.5. Does defendant have an agent or representative in New Jersey who is authorized to accept service of process on its behalf? If so, identify each such agent or representative, indicate their respective addresses and set forth the dates during which this function is or was performed.

A.6. Has defendant ever had an agent or representative in New Jersey who was authorized to accept service of process on its behalf? If so, identify each such agent or representative, indicate what their respective addresses were and set forth the dates during which this function was performed.

A.7. State the name and address of defendant's corporate officers and indicate the respective offices they hold.

A.8. Has defendant ever done business in the State of New Jersey?

A.9. If the answer to the previous interrogatory is in the affirmative, state:

- a. The inclusive dates the defendant did do business in the State of New Jersey; and

- b. Where in New Jersey it did business.

A.10. Set forth the following about each entity supplied in your answer to Interrogatory B4:

- a. The State or County of each entity's incorporation; and

- b. The corporate business headquarters of each entity from the date it was established until the present.

- B.1. State the name, address and job position of each and every individual signing these interrogatories on behalf of the defendant.
- a. State the name, address and employer and job position of each person, whether defendant's employees or otherwise who was consulted with or who assisted in the answering of these interrogatories.
- B.2. Give a full and detailed description of the nature of the business that your company is engaged in.
- B.3. When did your company commence its business?
- B.4. a. Are or have any of defendant's predecessors, affiliates, subsidiaries, or parent corporations engaged in the mining, sale and distribution of asbestos and/or asbestos fiber and/or asbestos containing insulation products? If so, state the name of each such entity, describe the nature of the involvement that each entity has or has had in the mining, distribution or sale of these products and materials, and set forth the inclusive dates each was involved in each aspect of this business.
- b. As to each such entity referred to in (a) above, state:
1. The relationship between defendant and each such entity;

2. The date each such relationship began and terminated;
 3. The names and addresses of each such entity's corporate officers and Board of Directors; and
 4. The names and addresses of your corporate officers and Board of Directors.
- B.5. From the year 1925 until the present, identify and state the address of any organization in which defendant, its officers, agents or employees have belonged, having anything to do with setting standards, regulations or the conducting of research into the use of asbestos, asbestos products or asbestos fiber.
- B.6. Has defendant ever been a member of or affiliated with any trade groups, professional associates or organization? If so, identify each such group, association or organization and set forth the inclusive dates of defendant's membership in each.
- B.7. Has defendant ever been a member of or affiliated with the Asbestos Textile Institute? If so, indicate when your company was affiliated or was a member of this organization.

- B.8. Does your company publish or distribute a manual or booklet which describes the nature of the business that defendant is engaged in? If so, set forth the title of such manual or booklet, indicate when it was published and attach a copy of same hereto.
- B.9. Has any employee or representative of your cooperation ever attended a conference or meeting of the Asbestos Textile Institute? If so, identify each such individual who attended these conferences or meetings and set forth the dates on which each such individual went to such a conference or meeting.
- B.10. Has your company ever been a member of, been affiliated with or provided funding for the Industrial Hygiene Foundation? If so, indicate when your company was a member or affiliate of this organization and set forth the dates, if applicable, when you provided funding to this organization.
- B.11. Does your company have a Board of Directors?
- B.12. Does your company's Board of Directors conduct meetings?
- B.13. Have minutes of the Board of Directors meetings been taken and maintained by your company? If so, indicate who has custody of the minutes at this time.

- B.14. Has your company, and/or its subsidiaries or affiliates ever manufactured or distributed asbestos containing products?
- B.15. Give a complete and detailed description of the particular qualities that asbestos has or had that caused your company and/or its subsidiary or affiliate to utilize asbestos in your products.
- B. 16. Did any of the entities from whom you received asbestos fiber or any of the entities referred to in B6, B7, B9 and B10 ever inform you or your company's employees that asbestos was potentially hazardous to the health of individuals who were exposed to it?
- B.17. If so, for each such company that transmitted such information to you and your company, set forth the following information.
- a. The name of each and every entity that informed your company that asbestos was potentially hazardous to health;
 - b. The dates you received this information from each such company;
 - c. Indicate how this information was transmitted to you;
 - d. The substance of each warning; and

- e. Annex hereto copies of each such warning.

B.18. Has defendant distributed or sold asbestos or asbestos containing products in the State of New Jersey? If so, set forth the following information:

- a. The date that defendant commenced selling asbestos or asbestos containing products in the State of New Jersey;
- b. The date the defendant terminated the sale of asbestos or asbestos containing products in the State of New Jersey; and
- c. The areas of New Jersey where asbestos or asbestos containing products were sold.

B.19. Did defendant ever affix any warnings to any of the asbestos or asbestos containing products it marketed and distributed? If so for each such product that contained a warning set forth the following information:

- a. The brand and trade name of each such product that contained a warning;
- b. The date a warning was attached to each such product;

- c. The substance of each warning; and
 - d. Annex hereto copies of each such warning.
- B.20. Set forth the name, address and job position of each and every individual who took part in your company's decision to place a warning on its asbestos or asbestos containing products.
- B.21. Prior to 1964, did any employee of the defendant ever recommend that it utilize a warning on its asbestos containing products? If so, identify each such employee, indicate when he made such a recommendation, indicate what the recommendation was, to whom it was given and what action was taken thereon.
- B.22. Has defendant ever established or maintained a library or libraries which in any way dealt with industrial hygiene, medicine, safety and engineering? If so, state:
 - a. Where the library was or is located;
 - b. The names of all journals which that library subscribed to:
 - c. For whom and for what purpose the library was established; and

- d. Whether there is an inventory of the books and publications which are or were housed in this library, and if so, attach a copy hereto.

B.23. Did defendant or its agents or employees ever make any effort to keep abreast of medical literature concerning potential health hazards posed by the use of and/or exposure to asbestos? Indicate the name, addresses and job positions of all your company's employees who reviewed this literature.

B.24. Prior to 1964 had your company done any studies or tests or had your company participated in, been the subject of, or been aware of any studies or tests by others concerning the potential effects of inhalation of asbestos dust or fibers by one using or being exposed to asbestos or asbestos containing products. If so, state:

- a. The date each study or test was conducted and the date defendant became aware of said study or test;
- b. The names and addresses of the persons conducting each test or study;
- c. The purpose of the study or test;
- d. The results of each study or test; and
- e. If reduced to writing attach a copy hereto.

B.25. Prior to 1964, did defendant's agents or employees conduct any experiments with laboratory animals to determine whether or not its asbestos containing products were potentially hazardous to the health of workers who were using them? If so, for each such experiment which was conducted, indicate who conducted it, state when it was conducted and describe the results of each such experiment.

B.26. Since 1964 has your company done any studies or tests or has your company participated in, been the subject of, or been aware of any studies by others concerning the effects of inhalation of asbestos dust and fibers by one using or being exposed to asbestos or asbestos containing products? If so, state the following:

- a. The date each such study or test was conducted and the date defendant became aware of said study or test;
- b. The names and addresses of persons conducting the tests or studies;
- c. The purpose of the tests;
- d. The results of each test or study; and
- e. Attach a copy of any reports based upon each study or test.

B.27. Since 1964, has defendant or its agents or employees sponsored or performed any laboratory experiments with animals to determine whether or not its asbestos containing products were potentially hazardous to the health of workers who were using them? If so, state who conducted each study, indicate where each study was conducted, and describe what the results of each test were.

B.28. Prior to 1964, did defendant or its agents or employees ever go out to construction sites, factories or power houses where its asbestos or asbestos containing products were being used to determine or measure the levels of asbestos dust or fibers in the work environment? If so, for each such study or experiment that was conducted, set forth the following information:

- a. When and where each measurement, study or test was conducted;
- b. Who conducted each measurement, study or test;
- c. What types of equipment were utilized to measure the levels of asbestos dust or fibers in the air;
- d. What the results of each measurement, test or study were; and
- e. Attach a copy of any reports concerning the measurements, tests or studies.

- B.29. Since 1964, has defendant and/or its agents or employees ever gone out to any construction sites, factories or power houses where its asbestos or asbestos containing products were being used to determine the levels of asbestos dust or fibers which were in the work environment? If so, for each study or experiment which was conducted, set forth the following information:
- a. Who conducted each measurement, study or test;
 - b. When and where each measurement, study or test was conducted;
 - c. What type of equipment was utilized to measure the levels of asbestos in the working environment;
 - d. What the results of each study, measurement or test were; and
 - e. Attach a copy of any report concerning each measurement, study or test.
- B.30. Give a complete description of all programs implemented and precautions taken by the defendant at its plants and facilities where it manufactures asbestos or asbestos containing products to reduce the levels of asbestos dust and fibers in the air. Include in this description all programs implemented and precautions taken since each plant was in operation. Include in this answer the date that each precaution was taken or procedure was implemented.
- B.31. Did defendant at any time require its employees who worked in the manufacture of asbestos or asbestos containing products to wear respirators, face masks or other protective devices? If so, set forth which employee (by type) was required to wear such

protective devices, when the directive relative to same was issued for each type of employee and specify what type of device was to be worn by each type of employee.

- B.32. Give a complete explanation of why each and every employee set forth in the preceding answer was required to wear a respirator, face mask or other protective device while working with asbestos.
- B.33. Has any worker employed by your company, its subsidiaries or affiliates ever filed a worker's compensation claim against defendant or its predecessors, affiliates or subsidiaries, for an occupational disease or condition which was allegedly caused by exposure to asbestos, asbestos products, asbestos dust or fibers? If so, set forth:
- a. The date each claim was made;
 - b. Where each claim was made;
 - c. The name and address of the party making the claim; and
 - d. The name and address of the party against whom the claim was made.
- B.34. If any employee or officer of defendant has testified at trial or by deposition in any litigation involving an alleged occupational exposure to asbestos, state:
- a. Name, address and title of each such person who testified;

b. Date, location and form of testimony; and

c. Whether defendant has a copy of such testimony.

B.35. Has defendant at any time since its inception, maintained any office or department dealing with medical research? If so, state:

a. The name of each such department;

b. The dates each such department was in operation; and

c. The name, address and job position of each such person who has been in charge of said department or departments.

B.36. When was the first time the defendant became aware of or knowledgeable of any disease or illness associated with or causally related to the inhalation of asbestos, asbestos fibers or asbestos dust in any form whatsoever? Indicate which disease defendant became aware of and describe how defendant became aware of its alleged relationship to inhalation or exposure to asbestos.

B.37. In reference to the preceding interrogatory, if defendant acknowledges a casual relationship between asbestos and disease or illness, set forth the following information:

- a. What diseases or illnesses defendant acknowledges are causally related to or associated with exposure to asbestos dust or fibers;
- b. The date upon which defendant became aware of the association with or casual relation to each such disease or illness;
- c. The date upon which defendant confirmed the casual relation of each such disease to exposure to asbestos dust or fibers; and
- d. How defendant became aware of each such casual relationship or association, indicating the source of all such information.

B.38. If your company manufactured any products which contained asbestos and which were commonly used by insulation workers and pipe coverers, describe how the following products were cut, shaped, mixed and applied when used:

- a. Asbestos cement;

- b. Asbestos containing pipe covering;

- c. Asbestos sheeting; and

- d. Asbestos insulation to cover extremes of heat as well as cold.

B.39. Prior to 1964, were there any memoranda written by, distributed, or circulated among defendant's employees, agents or representatives concerning the potential health hazards concerned with asbestos containing products? If so, state:

- a. Dates of each memorandum;

- b. Name, address and job position of each individual who wrote each memorandum;

- c. Name and address and job position of each individual to whom the memorandum was directed;

- d. Where each memorandum is kept; and

e. Attach copies of each memorandum hereto.

B.40. Has defendant or its predecessor corporations ever had a division, affiliate or subsidiary which was involved in contracting for or installation of asbestos-containing materials in New Jersey? If so, for each such entity involved in the contracting or installation of these products, set forth the following information:

a. Name of each such entity and the nature of its relationship to the parent corporation; and

b. The exclusive dates that each of the above mentioned entities were in existence.

B.41. Did defendant ever provide any of the employees who worked in the contracting for or installation of asbestos containing materials with any respirators, face masks or protective clothing? If so, indicate what types of protective clothing, respirators or face masks were provided, describe when each type was first provided to each employee and describe why they were provided to each type of employee.

B.42. Has any individual who was ever employed in the contracting and insulation business referred to above ever filed a claim for workmen's compensation because of an alleged occupational disease sustained allegedly because of occupational exposure to asbestos? If so, for each such employee who has filed a claim set forth the following information:

a. Name of each such employee;

b. When each claim was filed;

c. Where each claim was filed; and

d. Name of the attorney who represented the petitioner and respondent.

B.43. State the full name, job title and present residences, business and professional addresses of any and all persons who have knowledge of any relevant facts relating to this case and the defense of your company. Unless already set forth in answers to a prior question, set forth in detail the facts of which each person allegedly has knowledge.

B.44. State the name, address and credentials of each and every expert witness you intend to utilize at the time of trial, and annex hereto a copy of their report.

B.45. Do you contend that the plaintiff's illness is a consequence of the negligence or the fault of a third party or anyone who is not a party to this action? If so, state the name and address of each such party and set forth all facts which support your contention.

B.46. Do you contend that the illness and/or death of the decedent in this action was not causally related to an occupational exposure to asbestos dust and fibers? If so, give a full and detailed description of your contentions.

- B.47. Do you contend that other agents and/or substances caused the illness and/or death of the plaintiff in this matter? If so, identify each such agent and/or substance and set forth all facts to support your contentions.
- B.48. Has defendant and/or its agents or employees obtained any statements from anyone who had knowledge of the facts surrounding this cause of action? If so, set forth:
- a. Name, address and job position of the person that obtained the statement;
 - b. The name, address and job position of the person who gave the statement;
 - c. The date the statement was given; and
 - d. Whether the statement is in writing, and if so, who has custody of it.
- B.49. Does defendant contend that plaintiff or plaintiff's decedent suffered injuries and/or death due to his own negligence? If so, set forth all facts which support your contentions.
- B.50. Does defendant contend that plaintiff or plaintiff's decedent failed to use defendant's asbestos or asbestos containing products properly? If so, set forth all facts which support your contentions.

C.1. Has defendant and/or its affiliates or subsidiaries purchased asbestos fiber for use in its business or for manufacturing its products? If so, set forth the following information:

- a. The inclusive dates that your company purchased asbestos fiber;
- b. The name and address of each and every entity that you purchased the asbestos fiber from;
- c. The nature and types of products that your company used asbestos fiber for; and
- d. The type of asbestos fiber that your company purchased.

C.2. Does defendant have or has it had any plants, factories or production facilities located in the State of New Jersey which were or are engaged in the importation, manufacture, processing, converting, compounding, packaging, distribution, and/or sale of asbestos, asbestos containing products and/or asbestos containing insulation products? If so, for each such plant, factory or facility which is or has been located in New Jersey, set forth the following information;

- a. The name and address of each such plant, factory or production facility;
- b. The inclusive dates that each plant, factory or facility existed; and

- c. A complete and detailed description of all products that each plant, factory or production facility was engaged in producing (include in your description the type of product and its generic and trade name).

- C.3. Indicate which asbestos products and asbestos materials manufactured and distributed by the defendant are or were classified as “insulating materials.”

- C.4. With reference to the preceding question, give a full and complete description of the purposes for which defendant’s asbestos containing insulating materials were designed.

- C.5. Set forth the name and address of each and every entity that your company purchased or received asbestos fiber from which was utilized in the manufacture of your company’s asbestos containing insulation products. Include in your answer the inclusive dates that your company purchased asbestos from each such entity.

- C.6. As to any asbestos products or raw asbestos mined, converted, fabricated, produced, compounded, manufactured, processed, sold or distributed by defendant, state whether any was shipped or sold to plaintiff’s employer in New Jersey either directly or through a third party, stating which.

- C.7. If the answer to C6 is in the affirmative, state as to each asbestos product, or raw asbestos:
- a. Exactly what product(s) or type(s) of asbestos was (were) shipped or sold to plaintiff's employer;
 - b. The dates and quantities of each such product shipped or sold;
 - c. Whether any warnings, cautions, caveats or directions accompanied the materials so shipped, the date these appeared and the exact wordings of the warnings, cautions, caveats or directions and where the warnings, cautions, caveats or directions appeared;
 - d. The name and address of any intermediate supplier or distributor who sold this defendant's products to plaintiff's employer during the period referred to above;
 - e. Did your company affix its corporate logo or insignia on the packages of asbestos containing insulation products that it distributed and sold? If so, describe the type of logo or insignia which was used, indicate which products it was affixed to, and set forth the inclusive dates that each insignia or logo was utilized. Annex hereto a photograph or copy of each such logo described in this matter; and
 - f. Please describe in detail the type of packages in which defendant has sold, distributed or manufactured asbestos material, listing the dates each type of package was used, a physical description thereof and description of any printed material or trademark that appeared thereon.

- C.10. Give a complete and detailed description of each and every asbestos containing product that your company has designed, manufactured and distributed into the stream of commerce. Include in your description the trade, brand and generic names of each such product and indicate the type and amount of asbestos that was contained in each particular product. Include in this answer the inclusive dates that each particular product was manufactured and distributed.
- C.11. With reference to your answer to B18 state the names and addresses of the entities to whom the products were sold.
- C.12. Did your company and/or its affiliates or subsidiaries do business with or utilize any distributors in the State of New Jersey for purposes of selling or installing its asbestos products? If so, identify each such entity, indicate and describe the nature of the business that you did with each such entity, and set forth the dates this business relationship existed.
- C.13. Has your company ever employed any employees or salesmen whose responsibility it was to sell your company's asbestos containing products to a geographical area encompassing the State of New Jersey? If so, for each such employee or salesman who worked for your company, indicate the dates of his employment, his name and address.

- C.14. Give a complete and detailed description of the manner in which your company packaged each of the asbestos containing products that it manufactured and/or distributed in the State of New Jersey. Include in your description the type of packaging which was used and the material each type of packaging was comprised of.
- C.15. Did your company affix its corporate logo or insignia on the packages of asbestos containing products that it distributed and sold in the State of New Jersey? If so, describe the type of logo or insignia which was used, indicate which products it was affixed to, and set forth the inclusive dates that each insignia or logo was utilized. Annex hereto a photograph or copy of each such logo described in this answer.
- C.16. Did the packages or containers for the asbestos containing products that your company sold or distributed in the State of New Jersey contain any writing or labels? If so, for each such package or container which contained a label, set forth the following information about the writing on the package or label.
- a. The size of each label;
 - b. The substance of all writing on the label;
 - c. The inclusive dates that each writing or label appeared on each type of product; and
 - d. Annex hereto copies of or photographs of each such label that your company used.

- C.17. Give a complete and detailed description of each and every asbestos containing product that your company has designed, manufactured and distributed into the stream of commerce. Include in your description the trade, brand and generic names of each such product and indicate the type and amount of asbestos that was contained in each particular product. Include in this answer the inclusive dates that each particular product was manufactured and distributed.
- C.18. During the years that your company manufactured and/or sold asbestos containing materials, did your company prepare and/or publish any sales or promotional literature which depicted and describe there products? If so, describe the particular literature which your company prepared and indicate the information the literature contained. Describe who has custody of this literature at the present time.
- C.19. Has your company manufactured asbestos containing products and materials which were distributed by another entity or corporation under this name or trademark? If so, identify each such entity which sold or distributed these products, indicate which of your company's products this company marketed and indicate the inclusive dates that this particular commercial arrangement existed.

- C.20. Has your company marketed under its own name or trademark any asbestos containing insulation products which were manufactured by another corporation? If so, identify each and every product which your company marketed which was manufactured by another corporation, indicate the inclusive dates that you marketed each product and describe the name, trade name and generic name of each such product which your company marketed.
- C.21. Were any of the asbestos containing insulation products that defendant sold or distributed into the stream of commerce accompanied by written instructions or package inserts? If so, indicate which such products were provided with such instructions and package inserts, indicate when each product was accompanied by these materials, state the substance of what the instructions or package inserts stated and annex copies of same hereto.

FIRM NAME ADDRESS TEL. NO. ATTORNEY FOR	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY DOCKET NO. L- AS
_____, <p style="text-align: center;">Plaintiff,</p> v. _____, <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">ASBESTOS MOTION</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">MOTION FOR SUMMARY JUDGMENT BY DEFENDANT</p>

To:

Defendant, _____, hereby moves for summary judgment as to the Complaint and any counterclaims and cross-claims.

1. RETURN DATE:
2. SUPPORTING PAPERS:
3. ORAL ARGUMENT:
4. DATE ANSWER FILED:
5. TRIAL DATE:
6. SERVICE OF MOTION:

Dated:

LAW FIRM
 ATTORNEYS FOR _____
 By: _____

FIRM NAME ADDRESS TEL. NO. ATTORNEY FOR	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY DOCKET NO. L- AS
_____, Plaintiff, v. _____, Defendants.	 Civil Action ORDER FOR SUMMARY JUDGMENT FOR DEFENDANT

This matter having come before the Court on Motion of _____
 _____, attorneys for _____
 _____, and the Court having reviewed the moving
 and opposition papers, if any, and for good cause shown;

IT IS ON THIS _____ DAY OF _____, 200____,

ORDERED the motion of Defendant, _____, for
 summary judgment is hereby granted and the Complaint and any Counterclaims and
 Cross-Claims are hereby dismissed with prejudice.

ORDERED that of copy of this Order shall be served on all counsel within seven
 (7) days of the date hereof.

 Honorable Ann G. McCormick, J.S.C.

PRO HAC VICE MOTIONS (Revised)

R. 1:21-2

I. AFFIDAVIT REQUIREMENTS

- A. Member in good standing of the bar of the highest court in the state where the attorney practices;
- B. Associated with NJ counsel;
- C. Client has requested the representation;
- D. No disciplinary proceedings pending and no discipline previously imposed in any jurisdiction;
- E. Understand continuing obligation to advise court of any disciplinary proceeding;
- F. Will comply with R.1:20-1(b)(Annual Fee),
R. 1:28B-1(e)(Fee to Lawyers Assistance Fund) and
R. 1:28-2 (NJ Lawyer's Fund for Client Protection)

II. ORDER REQUIREMENTS

- A. Finding of good cause
 - 1. it is a complex area and the attorney is a specialist; or
 - 2. long standing attorney-client relationship; or
 - 3. no local counsel with adequate expertise; or
 - 4. involves question of foreign law; or
 - 5. there is a need for extensive discovery in the foreign jurisdiction.
- B. Shall abide by the New Jersey Court Rules including all disciplinary rules;

- C. Shall consent to the appointment of the Clerk of the Supreme Court as an agent upon whom service of process may be made for all actions against his firm that may arise out of his participation in this matter;
- D. Shall notify the Court immediately of any matter affecting his standing at the bar of any other Court;
- E. Shall have all pleading, briefs and other papers filed with the Court signed by an attorney of record authorized to practice in this State, who shall be held responsible for them, the conduct of the cause and the admitted attorney;
- F. Shall, within 10 days of the date of this Order, pay the fees required by R. 1:20-1(b), R. 1:28B-1(e) and R. 1:28-2 and shall submit an affidavit of compliance;
- G. Shall not be designated as trial counsel;
- H. No adjournment or delay in discovery, motions, trial or any other proceeding will be requested by reason of the attorney's inability to appear.
- I. Automatic termination of Pro Hac Vice admission shall occur for failure to make the required annual payment of the Annual Fee and the annual payment to the Lawyer's Assistance Fund and the New Jersey Lawyer's Fund for Client Protection. Proof of such payment, after filing proof of the initial payment, shall be made no later than February of each year.
- J. Noncompliance with any of these requirements shall constitute grounds for removal.
- K. A copy of this Order shall be served on all parties within seven (7) days of the date of this Order.

III. MISCELLANEOUS

- A. No more than two individual attorneys per party shall be admitted pro hac vice.

(Law Firm Name, Address and Telephone Number)

Appearance as: Defense Medical Counsel

Plaintiff,

:SUPERIOR COURT OF NEW JERSEY
:LAW DIVISION: MIDDLESEX COUNTY
: Docket No. L

vs.

:
: Civil Action

Defendants.

:
: **NOTICE OF APPEARANCE OF**
: **DEFENSE MEDICAL COUNSEL**
:
:
:

_____(Attorney and Law Firm) hereby enters an Appearance as
Defense Medical Counsel on behalf of the following defendants in the above captioned matter:

_____.

Pursuant to *R. 4:25-4*, _____ (Attorney Name) is hereby designated as
Trial Counsel on behalf of the defendants named herein or in any amended appearance.

(Attorney and Law Firm Name and Address)

By:_____

DATED:

**AUTHORIZATION FOR RELEASE OF PROTECTED
HEALTH INFORMATION MEDICAL RECORDS**

This Authorization is effective April 14, 2003, pursuant to the Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164, promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Title II, Subtitle F, §§ 261-264, Public Law 104-191.

TO: Provider Name:
Provider Address:

RE: Patient Name:
Patient Address:

Patient Date of Birth:

Patient Social Security Number:

Lawsuit Case Name:

Docket Number: L-

I, _____, am the (check one) patient and/or personal representative of the above named patient. I hereby execute this Authorization for the disclosure of health information for purposes of the above litigation.

1. I hereby authorize and direct that a true and complete copy of my entire medical file/ records be copied and produced, to the attorney identified in section 2, which authorization includes but is not limited to:

- Any and all records pertaining to office visits and appointments;
- Inpatient or outpatient medical record tests and reports;
- Radiology records and reports;
- Pathology records and reports;
- Cytology records and reports;
- Hospital records and reports;
- Autopsy records and reports;
- Consulting physicians' reports and records;
- Laboratory/clinic records and reports;
- Surgical procedure records and reports;

- Records and notes regarding personal histories, medical histories, social histories, family histories;
- Physician orders;
- Nurses' notes;
- Progress notes;
- Medication notes and prescriptions;
- Correspondence;
- Reprints/radiographic copies of actual x-ray films;
- Reprints/radiographic copies of actual medical scans;
- Reprints/radiographic copies of all radiographic films and/or data;
- Pathology materials, including but not limited to slides, tissue blocks, recuts and stains, providing that said materials do not render the remainder of the specimen unusable, and further provided that this request does not require the provision of material such that you cannot meet the request and also maintain such materials/records as required by law.

1A. If psychiatric records, HIV/AIDS information, substance abuse information, tuberculosis information, genetic information and/or sexually transmitted disease information is included in these records, initial next to the appropriate line below on order to include such records in this release:

_____ HIV/AIDS Related Information	_____ Mental Health and Psychotherapy Information
_____ Genetic Information	_____ Sexually Transmitted Disease Information
_____ Drug and Alcohol information	_____ Tuberculosis Information

NOTE: If this section (1A) is left blank, authorization to release psychiatric records, HIV/AIDS records, substance abuse records, mental health records, STD records and TB records will be presumed to be DENIED.

2. I authorize that the above documents be forwarded to:
 _____ (name/address of attorney and law firm)

3. This authorization is valid for all further requests made to you until the termination of the above referenced civil lawsuit pursuant to 45 C.F.R. Part 164.508(c)(iv).

4. I hereby waive all privileges with respect to production of the above-referenced documents.

5. I direct that you are hereby released from any liability in connection with the disclosure of documents provided pursuant to this authorization
6. I authorize that a copy of this Authorization will suffice in lieu of the original.
7. I understand that I have a right to revoke the Authorization at any time by notifying your Privacy Officer in writing. I am however aware that my revocation is not effective to the extent that the persons I have authorized to use and/or disclose my protected health information have acted in reliance upon this Authorization.
8. I understand that if my protected health information is disclosed to someone who is not required to comply with the Federal Privacy Rule, then such information may be re-disclosed by the recipient and would no longer be protected.
9. I understand that you may not condition my treatment, payment, enrollment in a health plan, or eligibility for benefits upon the provision of this Authorization. 45 C.F.R. Part 164.508(b)(4).
10. I understand that I have a right to refuse to sign this Authorization.

Witness

Patient Signature

Patient Name Printed

Date

OR

Witness

Name of Personal Representative

Relationship of Personal Representative
to Patient

Date

(Law Firm Name, Address and Telephone Number)

Appearance As: Attorney for Defense Medical Counsel

	:	SUPERIOR COURT OF NEW JERSEY
Plaintiff,	:	LAW DIVISION: MIDDLESEX COUNTY
	:	Docket No: L-
vs.	:	
	:	<u>CIVIL ACTION</u>
	:	
	:	COURT ORDER FOR RELEASE OF
Defendants.	:	RADIOGRAPHIC DATA, PATHOLOGY
	:	MATERIALS AND SPECIMENS FROM
	:	A MEDICAL FACILITY

This matter having been opened to the Court by _____

(Attorney / Law Firm Name) and all counsel in interest having been notified, and all counsel in interest having had the opportunity to be heard, and good cause having been shown;

IT IS on this _____ day of _____ 200 ____

ORDERED that _____, (Medical Facility) is to provide to _____ (Law Firm To Obtain Materials) the following materials within 30 days, pursuant to the attached "Authorization for Release of Protected Health Information Medical Records" executed by and/or on behalf of _____ (Patient's Name):

- Original and/or complete radiographic copies of any and all radiology films;
- Original and/or complete radiographic copies of any and all radiological scans;
- Original pathology materials, including but not limited to slides, tissue blocks, recuts, and stains;
- Original specimens of any type or form maintained at the medical facility requiring _____ (Patient's Name)

and it is further;

ORDERED that plaintiff(s) hereby waive all privileges with respect to production of the above-referenced material; and it is further;

ORDERED that _____ (Medical Facility) is hereby released from any liability in connection with the disclosure and production of the material; and it is further;

ORDERED that production of the materials set forth herein is pursuant to the Department of Health & Human Services Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and 164, promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Title II, Subtitle F, Sec. 261-264, Public Law 104-191; and it is further;

ORDERED that a copy of this Order will be served upon _____ (Medical Facility) within seven (7) days of receipt of this Order by counsel, and it is further;

ORDERED that a copy of this Order will be served upon all counsel in this litigation within seven (7) days of receipt of this Order by counsel.

ANN G. McCORMICK, J.S.C.

<p>IN RE: MIDDLESEX ASBESTOS LITIGATION</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY DOCKET NO. L-</p> <p>CIVIL ACTION — ASBESTOS LITIGATION</p> <p>UNIFORM CASE MANAGEMENT ORDER FORM</p>
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This matter coming on for a Case Management Conference with Special Master, Agatha N. Dzikiewicz, on _____, 20_____.

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.

These matters are hereby consolidated for discovery, case management and trial.

Trial counsel designations are hereby waived due to the age of **this case/these cases**.

Pleadings

_____ The time by which plaintiff may serve summons and complaint upon defendant(s) _____ is extended to this date.

_____ The time by which defendant _____ may file an answer to the complaint is extended to this date.

_____ The complaint is hereby amended to reflect wrongful death claim on behalf of plaintiff _____ and to name _____ as executor(trix) of the estate. Any defendants having previously filed an answer to the complaint are hereby deemed to have filed an amended answer to the complaint without any further filing.

Motions Regarding Pleadings

Motions or applications seeking leave to amend the complaint to add additional defendants or seeking leave to file a third party complaint shall be made by this date.

Discovery

Plaintiff shall serve answers to standard interrogatories and shall advise defendants whether the plaintiff is available for deposition and, if not, the reasons therefore by this date.

Defendants shall serve answers to standard interrogatories by this date.

Plaintiff shall propound supplemental interrogatories and document requests by this date.

Defendants shall propound supplemental interrogatories and documents requests by this date.

Plaintiff shall serve answers to supplemental interrogatories and document requests by this date.

Defendants shall serve answers to supplemental interrogatories and document requests by this date.

Plaintiff shall serve answers to wrongful death interrogatories and serve wrongful death reports by this date.

Supplemental/Amended answers to interrogatories shall be served by this date.

Plaintiff depositions shall be concluded by this date. Plaintiff's counsel shall contact the Special Master within one week of this deadline if plaintiff's depositions are not completed by this date.

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.

Plaintiff shall advise the Special Master of the status of answers to interrogatories and depositions by this date.

Early Settlement Conference

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

Early 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 4:00 p.m. of the day prior to the conference.

Summary Judgment Motion Practice

Summary judgment motions shall be filed no later than this date.

Last return date for summary judgment motions.

Medical Defense

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.

If the defendants asserting a medical defense cannot agree to the identity of the doctor conducting plaintiff's medical examination by this date, defendants shall arrange a telephone conference with plaintiff's counsel and the Special Master. Plaintiff shall be subject to only one defense medical examination absent exceptional circumstances.

Plaintiff is to arrange for the transfer of pathology specimens, medical records, x-rays and, if necessary, executed medical authorizations by this date.

The defense medical examination of plaintiff(s) shall be completed by this date.

Plaintiff shall identify its medical experts and serve medical reports and/or amended answers to interrogatories regarding health status of plaintiff(s) by this date. Plaintiff's counsel shall schedule a conference call with the Special Master and defense counsel asserting a medical defense within one week after this deadline if all medical reports are not served by this date.

Defendant shall identify its medical experts and serve medical reports, if any, by this date.

Second Settlement Conference

Second 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 4:00 p.m. of the day prior to the conference.

Liability Expert Reports

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.

Defendant 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.

Plaintiff shall identify its rebuttal liability experts and serve rebuttal liability expert reports, if any, by this date.

Motions, including for summary judgment, based on liability or medical expert reports, shall be filed no later than this date.

Last return date for motions relating to liability or medical expert reports.

Economist Expert Reports

Plaintiff shall identify its expert economists and serve its expert economist report(s), if any, by this date or waive any opportunity to rely on economic expert testimony.

Defendant shall identify its expert economists and serve its expert economist report(s), if any, by this date or waive any opportunity to rely on economic expert testimony.

Expert Depositions

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

Final 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 4:00 p.m. of the day prior to the conference.

Exhibit lists and witness lists (which are to include a brief description of the subject matter of the witness' testimony) are to be exchanged by this date.

In limine motions are to be filed no later than this date.

Last return date for *in limine* motions.

Final Pretrial Conference.

Trial Date.

Miscellaneous

, J.S.C.