



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

**IN RE: ASBESTOS PERSONAL
INJURY LITIGATION**

**MASTER FILE
Civil Action No. 03-C-9600**

THIS ORDER APPLIES TO ALL CASES

This Order applies to all asbestos personal injury cases. It is a supplement to the Case Management Order E-Filed on January 6, 2012, Transaction ID 41724862.

**AMENDED SUPPLEMENTAL CASE MANAGEMENT ORDER
OF APRIL 1, 2020**

On February 10, 2020, the court discussed with several attorneys who routinely represent plaintiffs and several attorneys who routinely represent defendants in asbestos-related personal injury litigation in West Virginia pending before this Court in Civil Action No. 03-C-9600. The result of that meeting was the Supplemental Case Management Order of April 1, 2020. On June 5, 2024, the Court held a hearing and is **ORDERING** this timeline for the completion of settlement agreements in this litigation. This order applies to all counsel involved in asbestos personal injury litigation in West Virginia.

Therefore, it is ORDERED:

1. Any settling defendant shall provide to counsel for settling plaintiff(s) a proposed release and other paperwork necessary for the conclusion of that settlement within thirty (30) days of the conclusion of the trial group in which the settled case has been placed.
2. If a settlement is reached in a matter that has not yet been placed in a trial group or where the settlement is reached more than sixty (60) days prior to the trial date, defendant shall provide the release and other necessary paperwork to counsel for the settling plaintiff(s) within thirty (30) days of the settlement agreement being confirmed in writing by either party.

3. If a Defendant is more than thirty (30) days late in providing a release, the Plaintiff's Counsel may provide written notice to the Defense Counsel on the matter. If seven (7) days after written notice is provided no release is forthcoming, Plaintiff can execute a release with identical terms to one used by Defendant within the prior two years and it will be treated as effective.

4. Should a settling plaintiff request changes to a release provided by a settling defendant, the parties shall make reasonable efforts in a good faith attempt to resolve any issue in this regard within twenty-one (21) days. In the process of seeking modifications to a proposed release, counsel for the requesting plaintiff shall advise counsel for the providing defendant of the reasons for seeking the requested modifications and, should the requested modifications not be readily agreed to, counsel for the providing defendant shall advise counsel for the requesting plaintiff of the reasons for not agreeing to same.

5. Once a release is received, counsel for any settling plaintiff should take appropriate steps to have the paperwork completed, executed, and returned to counsel for the settling defendant in a reasonable time.

6. Unless otherwise expressly agreed by the settling parties, upon receipt of the completed and executed release paperwork, payment shall be sent to counsel for the settling plaintiff(s) within seventy-five (75) days.

7. To the extent there are issues arising between settling plaintiffs and defendants regarding the matters referenced herein, involved counsel should first make **reasonable efforts to work it out before seeking the intervention of the Court**. Should it become necessary to seek the involvement of the Court in this regard, involved counsel should be prepared to advise the Court of the efforts made to avoid such involvement, including the steps taken to reasonably

meet the referenced timeline(s) or resolve the issue(s) between the parties. Counsel for plaintiffs and defendants are encouraged to communicate with each other throughout the process of completing settlements and to take reasonable steps to work with each other to accomplish full payment of outstanding settlements.

8. If payments are not made to the plaintiff(s) by the deadlines above, the plaintiff(s) counsel should contact the Court, copy defense counsel, and provide the following:

- a. Name(s) of Defendant corporation(s);
- b. Name(s) of Defendant(s) counsel;
- c. Name(s) of any known insurance carriers;
- d. Names of any individuals with ultimate authority for issuing payment;
- e. Settlement amounts (provided off the record to preserve confidentiality where applicable);
- f. Contact information for individuals or entities outlined in paragraphs 7(a) through (d) above.

9. If any of the information listed in paragraphs 7(a) through (f) above is not known or available to plaintiff(s) counsel, the information shall be provided by defense counsel copied on the notification communication to the Court. Parties are granted leave of court to make these submissions and responsive submissions under seal.

10.. Once the information listed in paragraphs 7(a) through (f) above is transmitted to the Court, the Court will then issue a warning letter to defense counsel and individuals with

authority outlining the possible consequences available under West Virginia law for failure to comply with settlement agreements, including a potential entry of judgment in favor of plaintiff(s). Further, the Court will provide a deadline by which payment of settlements must be made in full.

11. If payment in full is not received by the plaintiff(s) counsel before the Court's deadline, the Court will then enter Judgment in favor of the plaintiff(s) against the defendant(s) for failure to comply.

12. Once judgment is entered the plaintiff(s) can seek any remedy available under West Virginia law for collecting judgments.

13. Plaintiff(s)' will then attempt to collect their judgment through those available, West Virginia remedies. Plaintiffs are to attempt to satisfy the judgment by one or more of the available remedies available under West Virginia law. However, if those efforts fail, and at least 30 days pass since the entry of the judgment and payment in full of settlements due is not received through the collection efforts available to the plaintiff(s), plaintiffs shall notify the Court of their efforts.

14. Upon such notification, the Court may schedule a hearing to consider appropriate sanctions. Counsel for the non-paying Defendant AND representatives for the non-paying entity (defendant or insurance carrier) will be required to attend. After considering the defendant's explanations for its failure to satisfy the judgment, the Court will, if appropriate, consider whether contempt of court should be issued against those responsible defendants.

IT IS SO ORDERED.

ENTERED: This 17 day of JUNE, 2024.


RONALD E. WILSON,
JUDGE