

CAUSE NO. 2004-03964

IN RE

ASBESTOS LITIGATION

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

11<sup>th</sup> JUDICIAL DISTRICT

**MASTER ORDER CONCERNING SCHEDULING OF ACTIVE CASES IN THE  
ASBESTOS MDL COURT**

This Order applies to all related asbestos-exposure cases transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Texas Rule of Judicial Administration 13. Consistent with this Court's authority, as set forth in Rule 13.6(b), this Order is intended to facilitate the pre-trial administration of those cases. All MDL cases alleging a diagnosis of mesothelioma or an asbestos-related cancer are deemed Level 3. Nothing in this Order shall prevent the filing of any motion based on good cause. This order is a supplement to the Third Amended Case Management Order and is not intended to supplant any of the rules set out there in regarding discovery, pre-trial or trial proceedings.

**I. DISMISSAL FOR WANT OF PROSECUTION**

**A. Retention of cases**

On or before December 1, 2016, each firm representing a plaintiff who has a claim pending before the asbestos MDL court shall submit correspondence advising the Court of the active cases which should not be placed on the initial dismissal for want of prosecution docket.

**B. Dismissal for want of prosecution docket**

Any case for which plaintiff's counsel has not submitted correspondence referenced at I.A. above, will be placed on a dismissal docket beginning in January of 2017. The Court will give appropriate notice of the hearing. These cases will be dismissed after a forty five (45) day notice period, barring any subsequent timely request to remove the case from the dismissal docket. The dismissal docket will be held at the time of the regularly scheduled MDL asbestos hearing on the first and third Friday of the month at 9:30 a.m.

**II. ACTIVE CASE RESOLUTION SCHEDULE**

**A. Retained cases to be certified**

On or before May 1, 2017, each firm representing a plaintiff who has a claim pending before the asbestos MDL court shall advise the Court via written submission of the active cases the firm has a good faith expectation of seeking certification for trial.

**B. Dismissal for want of prosecution**

Beginning in June, 2017, the court will hold a docket on the first and third Friday of the month at the time of the regularly scheduled MDL asbestos docket wherein the court will set the remaining active cases for dismissal in chronological order, with the oldest cases

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Chris Daniel  
District Clerk

OCT 28 2016

Time: 10:43 am  
By: [Signature] Deputy  
Harris County, Texas

being set first. It is anticipated that the court will begin with cases filed in 2005 and set 20 cases to be dismissed on the first docket, with the number to be dismissed on each docket increasing thereafter at the court's discretion. To avoid dismissal, plaintiff's counsel should be prepared to advise the court when a case will be ready for certification for trial. It is anticipated that cases will be analyzed on an individual basis and most cases should be ready for certification within 3 - 18 months. The court will consider each request for a time to seek certification on an individual basis and subject more extended requests to a higher scrutiny.

**C. Certification of cases**

Once plaintiff's counsel has advised the court of the date the case will be ready for certification, counsel will be responsible for preparing a case for certification in a timely fashion consistent with the representation made to the court. A case will be subject to dismissal once this time has expired. Requests for an extension of time to certify will be considered by the court on an individual basis. All requirements for certification as set out in the third amended case management order must be complied with prior to setting a hearing for certification. The Court will use its discretion in determining how many matters will be set for certification and/or trial in any given month.

SIGNED on the 28<sup>th</sup> day of October, 2016



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THE HONORABLE MARK DAVIDSON