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MASTER DOCKET NO. 2004-70000

IN RE:

TEXAS STATE SILICA PRODUCTS
LIABILITY LITIGATION

This Document Relates to All Cases

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

333RD JUDICIAL DISTRICT

**MASTER ORDER CONCERNING SCHEDULING OF TRIAL SETTINGS IN THE
SILICA MDL COURT**

FILED
Chris Daniel
District Clerk

APR 28 2017 11:00 AM
Time: By: [Signature] Deputy
Harris County, Texas

This Order applies to all related silica-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 silicosis or silica-related disease are deemed Level 3. Nothing in this Order shall prevent the filing of any motion based on good cause. This Order is intended to supplant prior Texas Silica MDL orders governing trial settings.

I. TRIAL SETTING AND REMAND

All Plaintiffs must comply with the following to obtain trial settings and remand:

- a. Tender of all Plaintiff(s) in the subject case for deposition;
- b. Provide social security earnings information;
- c. Provide updated medical records, including X-rays and CT Scans; and
- d. Provide updated Verified Fact Sheets and/or responses to Requests for Disclosure pursuant to Texas Rule of Civil Procedure 194.2 or other discovery as directed by this Court.

II. Although not a prerequisite for seeking and obtaining a trial setting, Plaintiffs are to comply with the following discovery obligations within sixty (60) days after requesting a trial setting for a non-expedited case and thirty (30) days for an expedited case, subject to amendments for a showing of good cause:

- a. Tender of previously deposed Plaintiffs for non-duplicative depositions;
- b. Tender of Plaintiffs for defense physical medical examinations pursuant to the Silica Case Management Order;
- c. Fact witnesses must be disclosed pursuant to the requirements in Texas Rule of Civil Procedure 194.2 (e). In addition, Plaintiffs are to disclose whether any fact witness is deceased and whether Plaintiffs intend to offer at trial prior deposition testimony of any fact witness. If Plaintiffs intend to offer prior testimony, transcripts for all such testimony must be produced to Defendants;
- d. Bankruptcy trust disclosures shall be provided for all bankruptcy trust claims that

have been made prior to a request for trial setting. Otherwise, Plaintiffs are to comply with the bankruptcy trust claims provisions in Chapter 90 of the Texas Civil Practice and Remedies Code, including service to Defendants of notice of filings of, and bankruptcy trust claim materials relating to, each trust claim made by or on behalf of the exposed person 120 days before the scheduled trial date; and

- e. Defendants are permitted to depose the physicians who provided the original diagnoses, regardless of such physicians' current designation or if they are now retired. Defendants shall have the responsibility to obtain these depositions, including the issuance of subpoenas. The Court will consider any motions to quash such depositions.

III.

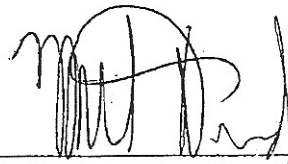
1. Upon completion of the discovery obligations by Plaintiff as stated in section I. above, or a showing of good cause as to why such information or materials cannot be provided:
 - a. Any party may file a request for trial setting. This request shall be served pursuant to the Texas Rules of Civil Procedure.
 - b. Within ten (10) days of receipt of a request for trial setting, any opposing party that does not believe that the requirements have been met shall file objections notifying requesting party, in writing, of the specific deficiencies it believes to exist. Any party not opting out of the objections is deemed to join in the objections to the trial request.
 - c. In order for a case to be set for trial, requesting party shall arrange for a hearing with this Court on a date no sooner than fifteen (15) days after filing of the request for trial setting, at which hearing any timely filed objections will be considered.
 - d. If no objections to the request for trial are timely raised, or the objections are overruled, the case shall be set for trial.
 - e. Vacation letters are deemed waived if not brought to the Court's attention prior to or at the time that the Court determines the date for the trial setting.
2. The Court has previously ruled that because of the age of these cases, a presumption exists that adequate time for discovery has passed for purposes of No-Evidence Motions for Summary Judgment. Said motions may be filed on or after May 31, 2017 and set for hearing pursuant to the rules of civil procedure. Any request for a delay on a hearing will require a motion which sets forth specifically what discovery is necessary to enable requesting party to respond to the motion for summary judgment.
3. Remand shall not be less than 180 days after the trial setting is granted in a non-expedited case and no less than 120 days in an expedited case unless otherwise ordered by the Court.
4. A written order setting the trial date shall be issued by this Court. Plaintiff shall present a proposed order to this Court at the trial setting request hearing. The signed order with the designated trial date will then be posted on LNFS.
5. Except as otherwise required by statute or the rules of civil procedure, all motions, other than motions in limine and motions for summary judgment, must be filed no later than 21 days prior to the pre-trial conference.

6. Motions to challenge the qualifications of experts, and/or the admissibility of expert testimony, shall be filed no later than twenty-one (21) days prior to the pre-trial conference. Motions which are the subject of this provision must be heard at least seven (7) days prior to the pre-trial conference with notice to opposing counsel at least ten (10) days prior to the conference.
7. Motions for summary judgment shall be heard prior to the pre-trial conference absent exceptional circumstances.

IV. PRE-TRIAL CONFERENCE AND ORDER OF REMAND

All pre-trial proceedings shall take place in this Court. There shall be a pre-trial conference in each case. Seven (7) days before the pre-trial conference, the parties shall exchange final exhibit and witness lists, deposition designations, and motions in limine. The parties are to exchange rebuttal page and line designations and objections to the designated deposition testimony three (3) days prior to the pre-trial conference and objections to those pages shall be filed one (1) day prior to the pre-trial conference. The parties shall confer on objections to such designations and motions before the pre-trial conference.

Signed on this the 28th day of April 2017.



**HONORABLE MARK DAVIDSON
TEXAS SILICA MDL JUDGE**