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AMENDED PRE-TRIAL ORDER NO. 9

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EXHIBITS

- Exhibit A - Asbestos Certificate of Service
- Exhibit B - Acknowledgement of Service
- Exhibit C - Model Cross-Claim of Defendants
- Exhibit D - Affidavit of Notice of Claim
- Exhibit E - Statement Requesting Transfer to the Inactive Asbestos Docket
- Exhibit F - Plaintiffs Disclosure Form
- Exhibit G - Massachusetts Asbestos Litigation Trial Preparation Timeline

APPENDICES

Appendix 1 - PRE-TRIAL ORDER NO. 8 – Order Authorizing Electronic Service of Court Filed Documents (Order dated 8/23/04) (Botsford, J.)

COMMONWEALTH OF MASSACHUSETTS

EASTERN COUNTIES, ss.

SUPERIOR COURT

IN RE: MASSACHUSETTS STATE COURT ASBESTOS LITIGATION)))))	MASSACHUSETTS ASBESTOS CASES CONSOLIDATED DOCKET
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AMENDED PRE-TRIAL ORDER NO. 9

As a result of conferences with counsel, and after hearing, the Court concludes that it would serve the interests of justice to enter this further Pre-Trial Order which supersedes the following: (1) Pre-Trial Order No. 1, dated January 20, 1982; (2) Pre-Trial Order No. 2, dated March 22, 1982; (3) Pre-Trial Order No. 3, dated June 7, 1983; (4) Pre-Trial Order No. 4, dated March 11, 1985; (5) Pre-Trial Order No. 5, dated November 3, 1993; (6) Pre-Trial Order No. 6, dated November 3, 1993; and (7) Pre-Trial Order No. 7, dated May 30, 2002. This Order is to be read harmoniously with Pre-Trial Order No. 8, dated August 23, 2004, Order Authorizing Electronic Service of Court Filed Documents, which governs all procedures for electronic service of documents in this litigation. Moreover, on June 6, 2012, the Court allowed further amendments to Pre-Trial Order No. 9 regarding service of pleadings and other documents; protocol for depositions of product identification witnesses; bankruptcy trust claims discovery; provisions for all cases regarding requirements of Medicare Medicaid and SCHIP Extension Act, Sec. 111, and Medicare’s right of recovery under Medicare Secondary Payer Act; and Motions for Admission Pro Hac Vice.

I. PRESENT CASES

Except as otherwise directed by the Court, this Order will be applicable to all cases,

including those pending and any future cases, alleging personal injury, illness, disease, death or loss of consortium purportedly arising out of exposure to asbestos or products containing asbestos that are commenced in Suffolk, Norfolk, Middlesex, Essex, Plymouth, Bristol, Barnstable or Worcester counties (hereinafter called the Eastern Counties).

II. FUTURE CASES

In the event future cases are filed concerning similar factual bases and allegations, this Order will apply to all such after-filed cases, except as otherwise directed by the Court, or upon Motion, for good cause shown, by the party seeking to have this Order declared inapplicable. Upon receipt of a complaint from an attorney representing a plaintiff, which attorney is not listed on the Asbestos Certificate of Service attached hereto as Exhibit A (which Certificate of Service is to be amended from time-to-time as necessary), Defendants Liaison Counsel shall send a copy of this Order to said new Plaintiffs counsel.

III. APPOINTMENT OF SUPERVISING JUDGE AND CONSOLIDATION OF CASES

A. The Honorable Charles J. Hely (the Supervising Judge) has been appointed to supervise all pre-trial proceedings, to rule on all contested motions, and to hear and to determine all questions of law arising prior to trial in all cases governed by this Order.

B. All cases governed by this Order, whether already pending or hereafter commenced, shall, except as otherwise herein provided, be subject to the jurisdictional and venue provisions of the applicable General Laws and Massachusetts Rules of Civil Procedure. All such cases, having been properly commenced, are hereby consolidated for pre-trial purposes only within the Superior Court Department of Middlesex County, and the Clerk of the Court shall maintain both an individual docket for each case, as well as a consolidated docket for all such cases which shall be entitled Massachusetts Asbestos Cases Consolidated Docket (Consolidated

Docket). The question of consolidation or transfer of some or all cases for trial is reserved.

C. All motions assented to by all necessary parties shall be recorded on the docket as Allowed by the Court, without the necessity of hearing and signature by the Court. The opposition procedure ordered by a Standing Order of the Superior Court shall not apply to cases covered by this Order.

D. Court files on cases governed by this Order and all complaints filed hereafter that contain allegations as covered by section I., above, shall be forwarded by the Clerk of Court of the county where filed to the clerk's office, Superior Court of Middlesex County, where the pleadings and papers on the cases will be maintained during the pre-trial stages. All pleadings and other papers filed subsequent to the complaint shall be filed with the Clerk of Middlesex Superior Court.

E. All discovery requests and responses and other papers in the Consolidated Docket shall be considered applicable to all cases and part of each individual case file and docket. Any pleading, discovery request and response or other paper filed on behalf of any party in an asbestos case shall be filed and docketed in the individual file of the case unless the party signifies thereon, with the words Massachusetts Asbestos Cases Consolidated Docket, that the document should be filed and docketed in the Consolidated Docket, in which event, the clerk shall file and docket the document in the Consolidated Docket. In the event that any pleading, discovery request and response or other paper is filed in an asbestos case by a party without the Consolidated Docket designation, and another party to the action believes that the document should be included in the Consolidated Docket, such other party may, by an appropriate written request forwarded to the clerk's office within ten (10) days of receipt of the document in question, request that the document be included in the Consolidated Docket and it shall be so

included.

IV. LIAISON COUNSEL

Appointment of Liaison Counsel to act on behalf of all Plaintiffs and Defendants counsel, after appropriate consultation where necessary, will facilitate communications among the Court and counsel, minimize duplication of effort, coordinate joint positions, and provide for the efficient progress and control of this litigation.

Liaison Counsel shall perform the following duties and have the following powers:

- (1) To receive on behalf of and distribute promptly to counsel notices and other documents from the Court;
- (2) To act as spokesmen at pre-trial or pre-hearing conferences subject to the right of each party to present individual or divergent positions where necessary;
- (3) To call meetings of counsel for the purpose of agreeing upon responses to questions and suggestions of the Court, and for the purpose of initiating proposals, suggestions, proposed orders, proposed schedules, joint briefs and joint schedules, and also for the purposes of initiating or opposing other pre-trial proceedings when appropriate; and
- (4) To perform such other functions as may be expressly authorized by further order of the Court.

In order to facilitate communications with the Court and with counsel for the plaintiffs, to minimize duplication of effort, to coordinate joint positions and to provide for the efficient progress of the litigations, defendants, under the leadership of Liaison Counsel, have met and conferred on a regular basis and will continue to do so. Each member of the Defense Group and its counsel have acknowledged and agreed that these efforts are privileged and confidential, and the substance of any discussions, meetings, and writings exchanged or other forms of joint defense effort is not to be revealed to anyone. All such efforts made by plaintiffs are similarly privileged and confidential and are not to be revealed to anyone.

A. Defendants Liaison Counsel

1. The Court hereby continues its appointment of Lawrence G. Cetrulo, Esquire, Cetrulo & Capone LLP, Two Seaport Lane, Boston, Massachusetts 02210, as Liaison Counsel for the defendants (defendants). In referring to defendants, this Order does not include shipyard owners, labor unions, or the United States of America.

2. Defendants Liaison Counsel is to be paid in advance, in response to periodic invoices submitted by him at least quarterly, which invoices are to be based upon his best estimates of the funds needed to defray the cost of Liaison Counsel services for the next succeeding period. Liaison Counsel shall also submit a detailed statement of the services rendered and disbursements made by him during the preceding period, along with a statement of the balance remaining from the payments received. Liaison Counsel shall apportion the billing attributable to the litigation in this Court on a pro rata basis, as hereinafter provided, and each defense interest, as hereinafter defined, shall be liable for its proportional share.

3. Each validly joined defendant over which this Court possesses jurisdiction shall constitute a single defense interest for the purposes of allocating the expenses of Defendants Liaison Counsel in accordance with the terms of this Order; except that certain individually named defendants which are integrally related to one another -- by virtue of being predecessors and successors in interest, parent and subsidiary, sister corporations, or other similar relationships -- shall be treated as single defense interests, and are to be charged only a single share of the costs and expenses attributable to Liaison Counsel activities. These distinctions shall be maintained in allocating proportional shares among the defense interests.

4. Each defense interest, measured at least annually, which is named as a

party in more than 20% of the total number of cases partially consolidated under this Order shall pay a full share. Any defense interest which is a party to between 20% and 5% of the total number of cases partially consolidated under this Order shall pay a 1/4 share, and any defense interest which is a party to less than 5% of the cases shall pay only 1/8 share. If any defense interest is a party to less than 1% of the cases, it shall pay only a 1/10 share.

5. Liaison Counsel shall inform each defendant twenty (20) days prior to a billing date that it will be included as a defense interest in the billing and shall specify the proportionate share each defense interest shall bear. It shall then be the responsibility of any objecting defense interest to demonstrate to Liaison Counsel that it is entitled to pay less than the share allocated to it. Any unresolved objections must be submitted to the Court in accordance with section IV.A.6., below.

6. Liaison Counsel invoices shall be due and payable when submitted. Interest, at the judgment rate, shall accrue, retroactive to thirty (30) days of submission, on all invoices remaining unpaid sixty (60) days after submission. All objections to the amount of any invoice or to Liaison Counsel's statement of services rendered and disbursements made shall be waived, unless made to the Court within thirty (30) days of the date of their submission.

7. If additional defendants are joined, or rejoined to the litigation, Liaison Counsel shall promptly submit to them invoices reflecting their appropriate share of anticipated Liaison Counsel services and, where a particular benefit is received from past Liaison Counsel services, such additional payment deemed appropriate by the existing defendants. Any such payment shall be made to Liaison Counsel and shall be utilized to reduce the shares to be charged to existing defendants in the next succeeding billing period.

8. Individual defense interests, as defined in section IV.A.3. above, not their

counsel, are responsible for payment to Liaison Counsel, although defendants may pay through their individual counsel.

9. The approval of a settlement or entry of judgment in any of these related civil actions will not operate to discharge unpaid Liaison Counsel invoices.

B. Plaintiffs Liaison Counsel

The Court hereby continues its appointment of David J. McMorris, Esquire, Thornton & Naumes, LLP, 100 Summer Street, Boston, MA 02110, as Liaison Counsel for all Plaintiffs counsel. Payment of Liaison Counsel for services and monies disbursed shall be by submission of bills to other counsel for plaintiffs.

V. CASE MANAGEMENT AND DISCOVERY

The time standards set forth in this section of the Order may be extended only by order of the Court or any special master appointed by the Court (the Special Master) or by agreement of the parties provided that any such agreement shall be subscribed to in writing by all parties affected by the agreement and approved by the Court or Special Master.

Any findings, rulings or recommendations of the Special Master pursuant to this Order shall be subject to review by the Court, but such findings, rulings or recommendations shall stand unless overruled by the Court.

A. Filing Pleadings On The Consolidated Docket

All pleadings in this litigation made after this date may be filed originally in standard format in the Consolidated Docket. Thereafter, with respect to both pending and after filed cases, any party may file as a pleading a single document referencing its applicable standard pleading and setting forth for incorporation therein any new allegation or defense peculiar to that individual case.

B. Complaints

1. Joinder of Claims

All complaints, whether presently pending or hereafter filed, shall join only claims related by survivorship, loss of consortium or society, claims of secondary exposure (e.g., claims of family members of a primary plaintiff, where it is alleged that injury was caused by asbestos carried into the home on the clothing of the primary plaintiff), or claims upon which good cause for joinder can be shown (e.g., claims of unrelated plaintiffs which contain essentially identical allegations as to exposure site, duration and rates of exposure, pathological result or imminent bankruptcy of a party).

2. Complaint Content and Format

The complaint should contain, to the maximum extent possible, and counsel are encouraged to plead, standard allegations which are generally applicable to all claims of a similar nature, and shall contain separate claims on behalf of each individual claimant. A good faith effort shall be made to set forth in all complaints dates and locations of exposure, the date of manifestation of alleged injuries and Plaintiffs employers on the date(s) of exposure.

3. Service of Summonses and Complaints

New actions shall be commenced and service accomplished in the usual manner prescribed by the Massachusetts Rules of Civil Procedure and the laws of the Commonwealth of Massachusetts, unless a defendant expressly agrees in writing to the procedure for acceptance of electronic service of process set forth in the Court's Pre-Trial Order No. 8, Order Authorizing Electronic Service of Court Filed Documents, annexed hereto as Appendix 1, by filing with the Court and serving upon all counsel a notice to that effect. For each new case filed, Plaintiffs

counsel shall follow the procedures for the addition of new cases set forth in Pre-Trial Order No. 8 to initiate the electronic case docket.

4. Service of Other Pleadings and Documents

The court has entered an Order Authorizing Electronic Service of Court Filed Documents, Pre-Trial Order No. 8, annexed hereto as Appendix 1, and may, from time to time, modify that Order. The Order Authorizing Electronic Service of Court Filed documents shall apply to all documents (including any exhibits or attachments to said documents) that parties to the Massachusetts Asbestos Litigation are required by Massachusetts Rules of Civil Procedure or any applicable Pre-Trial Order to serve on counsel of record, except that, unless otherwise agreed to (see Section V.B.3., above), it shall not apply to service of summonses and complaints, which shall continue to be served by traditional means pursuant to Massachusetts Rules of Civil Procedure, Rule 4. Other than for service of summonses and complaints, use of the Electronic Service System and the procedures set forth in Pre-Trial Order No. 8 is mandatory for all parties in the Massachusetts Asbestos Litigation. Parties shall file all Motions and other documents in paper form with the Middlesex County Clerk's Office of the Superior Court according to the applicable Rules of Civil Procedure and this Pre-Trial Order except that no Exhibits to Motions for Summary Judgment, Exhibits to Oppositions to Motions for Summary Judgment, Exhibits to Replies or Exhibits to Responses to such Motions and/or Oppositions shall be filed with the Middlesex County Clerk's Office of the Superior Court in paper form. Parties shall serve Exhibits to Motions for Summary Judgment, Oppositions to Motions for Summary Judgment, Replies or Responses to Motions or Oppositions to Motions for Summary Judgment using the Electronic Service System in the Docket (currently LexisNexis File & Serve) and the Party on whose behalf the Exhibits are filed is responsible for ensuring that an electronic copy of the

Exhibits is uploaded properly to the Electronic Service System. Parties may file Exhibits on CD-ROM or DVD media with the Middlesex County Clerk's Office of the Superior Court.

Any party seeking appellate review of a ruling on a Motion for Summary Judgment will be required to file all Exhibits with the Appellate Court according to the court's rules.

Except as otherwise provided by the Massachusetts Rules of Civil Procedure, proof of service in all pleadings and other papers required to be served shall be sufficient if it contains a written statement of counsel that service was made electronically on Liaison Counsel and all parties of record.

C. Answers/Acknowledgements Of Service

Each defendant may, within sixty (60) days after service or such other time as may be agreed to between plaintiff and defendant, serve an Acknowledgment of Service in the form attached to this Order as Exhibit B. Upon the filing of such Acknowledgment of Service, the defendant will be deemed to have denied all material allegations contained in the plaintiffs complaint and to have raised each of the affirmative defenses contained in that Defendants standard set. The filing of the Acknowledgment of Service shall not constitute a waiver of Defendants right to challenge any defect in process or service of process and, by filing said Acknowledgment of Service, the defendant shall be deemed to have fulfilled the requirements of Massachusetts Rules of Civil Procedure, Rule 12.

Defendants are encouraged to file a standard set of affirmative defenses in the Consolidated Docket. Nothing herein shall preclude defendants from filing individual answers, if they so choose. Filing such individual answers, however, is not encouraged. In light of the delays that frequently occur between service of process and the receipt of complaints by Massachusetts defense counsel, Plaintiffs counsel shall grant liberal extensions of time to file the

Acknowledgment of Service or answer.

D. Cross-Claims

In lieu of filing separate cross-claims, defendants may adopt in whole or in part the Model Cross-Claim of Defendants annexed hereto as Exhibit C by so indicating in the second section of their Acknowledgment of Service in accordance with the form attached. Unless otherwise stated, such cross-claims shall be deemed to be stated against all defendants and after-joined defendants. Defendants which choose not to raise cross-claims shall so indicate in their Acknowledgment of Service in accordance with the form attached.

Defendants shall not file individual answers to cross-claims. All defendants will be deemed to have denied all material allegations raised in any cross-claim filed and to have incorporated any standard set of defenses to cross-claim that they may file. Nothing herein shall preclude a defendant from filing cross-claims against other defendants that state claims not made in the Model Cross-Claims of Defendants.

For purposes of this section, defendant shall refer only to the manufacturing and distributing defendants and not to such third parties as the United States, Bethlehem Steel Corporation, General Dynamics Corporation or a union or union official.

E. Third Party Practice

If any defendant desires to implead a third party in a particular case, it may do so without leave of Court within:

- (1) three months after service of Plaintiff's Answers to Defendants First Set of Interrogatories; or
- (2) twelve months after the date of service of the complaint on the particular defendant,

whichever date is latest. Any impleader after those dates shall be pursuant to Massachusetts

Rules of Civil Procedure, Rule 14. Copies of all third-party pleadings shall be served on all counsel of record in the electronic Consolidated Docket using the procedures for electronic service set forth in Pre-Trial Order No. 8.

When serving the third-party pleadings on a newly impleaded party, a copy of this Order shall be attached and attention drawn to it.

F. Complaint Amendments

1. Motions to Amend to Add Wrongful Death Claim

Plaintiffs may, without leave of the Court, amend complaints to add claims of wrongful death which are alleged to have occurred after the filing of the complaint and as a result of exposure to asbestos.

2. Motions to Amend to Add Survivorship or Loss of Consortium Claims, or to Sever Claims Based on Joinder Standards

Plaintiffs may, without leave of the Court, amend complaints to add claims based on survivorship, loss of consortium or society, or secondary exposure, to sever claims which do not meet the standards for joinder of section V.B.1. or to join other claims where the parties agree that good cause for joinder exists.

3. Motions to Amend to Add New Parties

All amendments to join defendants may be made only with leave of Court and pursuant to all applicable Massachusetts Rules of Civil Procedure. A Plaintiffs Disclosure Form, with accompanying documents, shall be served upon any new defendant that a plaintiff moves to add to a case through an amended complaint. When a party serves a motion or pleading seeking to add new parties to a case, the serving party shall follow the procedure for addition of new parties set forth in Pre-Trial Order No. 8 in order to map to the electronic case docket all parties sought to be added (who have a registered user).

4. Service of Motions to Amend

Service of any amendment by electronic means using the Electronic Service System pursuant to Pre-Trial Order No. 8 on Massachusetts counsel for a defendant shall be considered service on that defendant, except if the amendment provides for the addition of parties defendant to a case or cases, in which event the requirements of Massachusetts Rules of Civil Procedure, Rules 4 and 15 shall apply. Such amendments shall incorporate by reference the allegations of the complaint on file where appropriate.

5. Effect of Prior Answers and/or Acknowledgements of Service

When a complaint is amended so as to add new plaintiffs or new defendants, all previously named defendants shall be deemed to have answered as set forth in Section V.C. Other amendments to the pleadings shall be pursuant to Massachusetts Rules of Civil Procedure, Rule 15. A defendant that has previously answered, as set forth in Section V.C. above, is not required to file any further responsive pleading to any amended complaint.

G. Motions To Dismiss

At least thirty (30) days before a scheduled trial, plaintiff shall dismiss any particular defendant against whom the plaintiff does not intend to offer evidence at the trial tending to establish the Defendants liability. The dismissal of any defendant pursuant to this section shall not form the basis of a violation under Massachusetts Rules of Civil Procedure, Rule 11. Furthermore, if a plaintiff does not voluntarily dismiss pursuant to this section, the failure to so dismiss pursuant to this section will not be used to form a basis for determination that a violation of Massachusetts Rules of Civil Procedure, Rule 11 exists.

H. Stipulations of Dismissal

Notwithstanding the requirement of Massachusetts Rules of Civil Procedure, Rule 41

requiring the signature of all parties, unless objection is served within twenty (20) days, stipulations of dismissal signed by Plaintiffs counsel and counsel for a particular defendant shall operate as a dismissal of the case as to that particular defendant.

I. Compliance With Massachusetts Superior Court Rule 9A

For all motions served pursuant to Rule 9A of the Massachusetts Superior Court Rules, the Motion Practice Procedures as set forth in Pre-Trial Order No. 8 shall apply.

VI. INACTIVE ASBESTOS DOCKET

In addition to the Consolidated Docket, there shall be a separate Inactive Asbestos Docket which shall include (1) those claims initiated by the Notice of Claim Procedure, and (2) those cases voluntarily transferred from the trial list to the Inactive Asbestos Docket. The Inactive Asbestos Docket shall be maintained by the Asbestos Docket Clerk.

A. Notice of Claim Procedure

A plaintiff may file an Affidavit of Notice of Claim with the Asbestos Docket Clerk who shall record it in the inactive Asbestos Docket, separate from the Consolidated Docket. No filing fee shall be paid. The filing of such an Affidavit of Notice of Claim, however, shall constitute an original pleading as defined in Massachusetts Rules of Civil Procedure, Rule 15. A plaintiff filing an Affidavit of Notice of Claim shall submit said Affidavit in the form set forth in Exhibit D.

The Affidavit of Notice of Claim shall contain the following information: (1) the name, address, Social Security number and marital status of each plaintiff; (2) a brief statement concerning the occupation and exposure history of the plaintiff; (3) a statement concerning the nature of the asbestos-related injury, disease or condition which the plaintiff alleges he or she has suffered; (4) the names of all entities with respect to which the plaintiff is giving notice

(hereinafter referred to as Notice of Claim Defendants); and (5) the names and addresses of each person served and the date of service.

Within thirty (30) days of the filing of the Affidavit of Notice of Claim, the plaintiff shall serve a copy of the Affidavit of Notice of Claim upon each Notice of Claim Defendant by first class mail, postage prepaid, and upon Defendants Liaison Counsel.

Each Defendant shall file, with the Asbestos Docket Clerk, a designation of who is to be served with a copy of the Affidavit of Notice of Claim. The Asbestos Docket Clerk shall maintain these designations in the Inactive Asbestos Docket. Service of an Affidavit of Notice of Claim upon the individual designated shall constitute sufficient notice pursuant to this section.

The filing of an Affidavit of Notice of Claim shall toll all applicable statutes of limitation regarding any claims of the plaintiff, his or her spouse, his or her children, his or her dependants or their estates, arising from the asbestos-related injury, disease or condition stated in the Affidavit of Notice of Claim except for claims based on wrongful death.

Any claim initiated by the filing of an Affidavit of Notice of Claim shall be exempt from the discovery provision of this Order, except that depositions may be taken in accordance with Massachusetts Rules of Civil Procedure, Rule 27.

A claim may be removed from the Inactive Asbestos Docket by the filing of a complaint in the office of the Clerk as provided by Massachusetts Rules of Civil Procedure, Rule 3. Service of the complaint shall be accomplished in the usual manner as provided in the Massachusetts Rules of Civil Procedure.

In the event that a complaint is filed and in the event that a verdict is rendered or judgment is made for the plaintiff, interest on the amount of damages shall be calculated from the date of the filing of the complaint, not from the date of the filing of the Affidavit of Notice of

Claim.

B. Transfer Of Cases From The Active Docket To The Inactive Docket

Any plaintiff who has a case pending in the Massachusetts State Court Asbestos Litigation, Consolidated Docket may file a Statement Requesting Transfer to the Inactive Asbestos Docket (attached hereto as Exhibit E), which claims shall be transferred as hereinafter provided.

The transfer of any individual case shall be as to all plaintiffs named therein, shall be as to all defendants named therein, shall apply to all claims made therein, shall be without prejudice, and shall be without costs to any party.

The transfer shall toll all applicable statutes of limitation regarding any claim for an asbestos-related pleural or parenchymal condition, disease or injury and/or the claims for injury or disease alleged in plaintiffs or Plaintiffs complaint or amended complaint, except for claims based upon wrongful death. Said tolling shall apply only with respect to those defendants named in the complaint transferred. Any defendant sought to be added to such a case after it has been re-filed shall be added only pursuant to Massachusetts Rules of Civil Procedure, Rule 15 and after an appropriate ruling by the Court. The preceding sentence does not preclude any newly named defendant from opposing the motion to add for cause.

If the complaint does not allege a specific injury or disease, the statement requesting voluntary transfer shall state the specific nature of the Plaintiffs alleged asbestos-related pleural or parenchymal condition, disease, or injury. All statute of limitation defenses that could have been asserted at the time the statement requesting voluntary transfer was filed and all statute of limitation defenses as to an injury or disease different from that alleged in the complaint or statement requesting voluntary transfer are preserved and are not tolled by the filing of a

statement requesting voluntary transfer.

No complaint may be transferred except by agreement of counsel or by leave of court after it has been placed on a trial list or assigned a trial date.

In the event that the complaint is re-filed and in the event that a verdict is rendered or judgment is made for the plaintiff, interest on the amount of the damages shall be calculated from the date of the re-filing of the complaint, not from the date on which the complaint was originally filed.

Plaintiff or plaintiffs may re-file his, her or their complaint once as a matter of course without leave of Court.

The re-filing of the complaint shall be accomplished by the filing of a pleading entitled Notice of Re-filing of Complaint and shall bear the individual docket number originally assigned to the complaint. A copy of the notice shall be served on Defendants Liaison Counsel and Counsel of record for the defendants in the original action. There shall be no fee for re-filing a complaint.

Upon the re-filing of the complaint, the parties shall be allowed a period of one (1) year in which to complete discovery and thereafter the case shall be placed on the first available trial calendar.

C. Certification By Plaintiffs Counsel

Whenever, after the filing of a complaint, plaintiffs counsel seeks to transfer a case to the inactive docket, he or she must certify within the Statement Requesting Transfer to the Inactive Asbestos Docket that the transfer is not being sought solely for the purposes of delaying the trial.

VII. PLAINTIFFS ANSWERS TO DEFENDANTS DISCOVERY REQUESTS

A. Disclosure Form

1. Execution and Service

Within one year of filing a complaint, each plaintiff shall serve on each named defendant a completed and executed Plaintiffs Disclosure Form in the form attached hereto as Exhibit F or in a form substantially similar to and including all the information requested in Exhibit F. In addition, each plaintiff shall produce to each named defendant copies of those documents set forth in Section VI of Exhibit F at the time the Form is served. A Plaintiffs Disclosure Form with accompanying documents shall be served upon any new defendant sought to be added to a case by a Plaintiffs motion to amend the complaint. A Plaintiffs responses to a Plaintiffs Disclosure Form may be used at trial in the same manner as answers to interrogatories pursuant to the Massachusetts Rules of Civil Procedure, Rule 33(b).

2. Effect

Any defendant named in a complaint but not identified in the Plaintiffs Disclosure Form shall, by operation of this section, be deemed dismissed from the case without prejudice and without costs to any party: provided that any previously filed cross-claim pending against such a defendant shall not likewise be subject to dismissal on that basis. A Plaintiffs claim against any defendant so dismissed may be revived only if the Court later approves, on good cause shown, a motion filed by the plaintiff to amend the complaint to add that defendant.

B. Defendants Revised Standard Interrogatories And Defendants Requests For Production Of Documents And Things

1. Responses by Plaintiff to Defendants Revised Standard Interrogatories and Defendants Revised Standard Requests for

Production of Documents and Things

Each plaintiff shall directly and completely respond to the Defendants Revised Standard Interrogatories and Defendants Revised Standard Requests for Production of Documents and Things within one hundred and eighty (180) days of the filing of the complaint, unless he or she has an objection to the discovery request that has not previously been raised before and ruled on by the Special Master or the Court, in which case the plaintiff shall state that objection. In any case where the plaintiff seeks advancement on the trial docket due to exigent health circumstances, such plaintiff shall certify that he or she has already complied with all standard discovery requests, including the Plaintiffs Disclosure Form, Defendants Revised Standard Interrogatories, and Defendants Revised Standard Requests for Production of Documents and Things.

2. Format for Responses

In responding to Defendants document requests, the plaintiffs shall identify which of Defendants requests the documents produced are intended to satisfy. The plaintiffs shall state whether their search for the requested documents is incomplete. If the search is incomplete, the plaintiffs will produce any additional documents as soon as they are located, but in no event later than ninety (90) days before trial. If a plaintiff fails to respond to a request for production by providing the requested documents, the provisions of Massachusetts Rules of Civil Procedure, Rule 37(a)(4) shall apply.

3. Service of Revised Standard Interrogatories and Requests for Production of Documents on New Counsel

As filed, the Defendants Revised Standard Interrogatories and Defendants Revised Standard Requests for Production of Documents and Things will be deemed to apply to all pending and after filed cases, without the necessity of further filing and service of such

interrogatories in individual cases. In the case of a new plaintiff not represented by an attorney who has previously appeared for some other plaintiff, however, Defendants Liaison Counsel will serve a copy of the Defendants Revised Standard Interrogatories and Defendants Revised Standard Requests for Production of Documents and Things on such counsel.

C. Supplemental Discovery Requests

After the plaintiffs have responded to the Defendants Revised Standard Interrogatories and Defendants Revised Standard Requests for Production of Documents and Things referred to in section VII.B., above, any defendant may file supplemental, non-repetitive interrogatories and requests for production which are relevant to the Defendants preparation of its defense in any case, as it deems appropriate. Defense counsel are admonished to exercise the utmost good faith in determining the necessity for such further interrogatories, and to grant Plaintiffs counsel liberal extensions of time to answer supplemental interrogatories.

D. Requests For Admissions

Requests for Admissions are permitted in the asbestos cases covered by the Pre-Trial Order and shall be governed by Massachusetts Rules of Civil Procedure, Rule 36.

E. Procedure For Resolving Discovery Disputes

The principles which shall guide the parties, counsel, the Special Master and the Court are: (1) information should be freely exchanged, and (2) the parties should resolve discovery disputes unaided.

If a defendant informs a responding plaintiff of a perceived inadequacy with the Plaintiff's discovery responses, counsel for each of the parties shall, within twenty (20) days of such notice, confer in good faith to resolve the dispute or to narrow the areas of disagreement to the fullest extent possible. If the dispute cannot be resolved, defendant may file a motion to compel a

further answer or response with the Special Master within fourteen (14) days of the conference. Any such motion shall be accompanied by an affidavit by Defendants counsel certifying that the parties have conferred in good faith in an effort to resolve or narrow the issues in dispute. The plaintiff served with such a motion shall respond thereto within fourteen (14) days. If necessary, the Special Master may conduct a hearing on the motion. The Special Master shall make findings on each issue raised in the motion and may direct the parties to act in accordance with those findings. The Special Master may also recommend that costs or other appropriate sanctions be imposed on one or more of the parties. The parties shall have thirty (30) days in which to comply fully with the directives of the Special Master subject to enlargement or limitation by the Special Master in special circumstances.

VIII. DEFENDANTS ANSWERS TO PLAINTIFFS DISCOVERY REQUESTS

A. Plaintiffs Revised Standard Interrogatories And Plaintiffs Requests For Production Of Documents

1. Responses by Defendants to Plaintiffs Revised Standard Interrogatories and Plaintiffs Requests for Production of Documents

Each defendant shall serve answers to the Plaintiffs Revised Standard Interrogatories and Plaintiffs Requests for Production of Documents within ninety (90) days after service of those documents. Defendants shall directly and completely answer all interrogatories and respond to all requests for production unless they have an objection to the discovery request that has not previously been raised before and ruled on by the Special Master or the Court, in which case they shall state that objection.

Plaintiffs Revised Standard Interrogatories and Plaintiffs Requests for Production of Documents include separate sections that are specifically tailored for each type of defendant (manufacturer, distributor, seller, broker, etc.). For those defendants that qualify for more than

one defendant category, the defendant shall fully respond to all applicable interrogatories and requests for production.

2. Prior Responses

Any defendant who has previously responded to interrogatories or requests for production of documents in accordance with section VIII.A.I. of this Order or in accordance with any other discovery section of any previous Pre-Trial Order, may respond to the Plaintiffs Revised Standard Interrogatories and Plaintiffs Requests for Production by specific citation and incorporation by reference of such prior responses. If such prior responses are not fully responsive to the Plaintiffs Revised Standard Interrogatories and Plaintiffs Requests for Production, then in addition to such specific citation and incorporation by reference, the defendant shall provide all additional information or documents required to make each such response complete. In answering interrogatories relating to particular cases, cross-referencing to general answers filed in the Consolidated Docket is encouraged.

3. Format for Responses and Production

Each defendant will produce documents by serving one set of the requested documents on Plaintiffs Liaison Counsel, who will permit other Plaintiffs counsel to inspect and copy such documents as they desire. In responding to Plaintiffs document requests, the defendants shall identify which of Plaintiffs requests the documents produced are intended to satisfy.

The defendants shall state whether their search for the requested documents is incomplete. If the search is incomplete, the defendants will produce any additional documents as soon as they are located, but in no event later than ninety (90) days before trial.

If a defendant fails to respond to a request for production by providing the requested documents, the provisions of Massachusetts Rules of Civil Procedure, Rule 37(a)(4) shall apply.

4. Service of Revised Standard Interrogatories and Requests for Production of Documents on New Defendants

The Plaintiffs Revised Standard Interrogatories and Plaintiffs Requests for Production of Documents and Defendants answers thereto and all previously filed answers to Plaintiffs standard sets of interrogatories shall apply to all pending and after-filed cases. In the event that a defendant, not previously named in these actions, is named by a plaintiff, that Plaintiffs counsel will so inform Plaintiffs Liaison Counsel who will serve a set of the Plaintiffs Revised Standard interrogatories on such defendant.

B. Supplemental Discovery Requests

After the Plaintiffs Revised Standard Interrogatories and Plaintiffs Requests for Production of Documents referred to above are answered, Plaintiffs counsel may serve upon any defendant supplemental, non-repetitive interrogatories and requests for production which are relevant to Plaintiffs preparation of cases for trial in any case, as they deem appropriate. Plaintiffs counsel are admonished to exercise the utmost good faith in determining the necessity for such further interrogatories and requests for production, and to grant Defendants counsel liberal extensions of time to answer any supplemental interrogatories.

C. Requests For Admissions

Requests for Admissions are permitted in the asbestos cases covered by the Pre-Trial Order and shall be governed by Massachusetts Rules of Civil Procedure, Rule 36.

D. Defendants Responses To Disclosure Forms

Within sixty (60) days of its receipt of a Plaintiffs Disclosure Form as required under section VII.A., each defendant shall either admit or deny the Plaintiffs allegations contained in Part V of said form relative to the presence of the Defendants asbestos products or the Defendants agents or employees at each jobsite or other exposure site. Such allegations shall be

deemed admitted unless the defendant serves on the plaintiff a written statement signed under the pains and penalties of perjury specifically denying the allegations or setting forth in detail why the defendant cannot truthfully admit or deny the allegation. A denial shall fairly meet the substance of the allegation, and when good faith requires that a defendant qualify its answer or deny only a part of the allegation, it shall specify so much of the allegation as is true and qualify or deny the remainder. A defendant may not give lack of information or knowledge as a reason for failure to admit or deny unless it states that it has made a reasonable inquiry and that the information known or readily obtainable by it is insufficient to enable it to admit or deny. Any disputes regarding a Defendants compliance with this section shall be resolved in accordance with the procedures set forth in section VIII.E., below. This section shall be construed harmoniously with Massachusetts Rules of Civil Procedure, Rule 36(a).

E. Procedure For Resolving Discovery Disputes

The principles which shall guide the parties, counsel, the Special Master and the Court are: (1) information should be freely exchanged, and (2) the parties should resolve discovery disputes unaided.

If a plaintiff informs a defendant of a perceived inadequacy in its discovery responses, counsel for each of the parties shall within twenty (20) days of such notice, confer in good faith to resolve the dispute or to narrow the areas of disagreement to the fullest extent possible. If the dispute cannot be resolved, plaintiff may file a motion to compel a further answer or response with the Special Master within fourteen (14) days of the conference. Any such motion shall be accompanied by an affidavit by Plaintiffs counsel attesting to the fact that the parties have conferred in good faith in an effort to resolve or narrow the issues in dispute. The defendant served with such a motion shall respond thereto within fourteen (14) days. If necessary, the

Special Master may conduct a hearing on the motion. The Special Master shall make findings on each issue raised in the motion and may direct the parties to act in accordance with those findings. The Special Master may also recommend that costs or other appropriate sanctions be imposed on one or more of the parties. The parties shall have thirty (30) days in which to comply fully with the directives of the Special Master, subject to enlargement or limitation by the Special Master in special circumstances.

IX. DEPOSITIONS

A. Depositions To Be Held In Boston Areas Exception

All depositions of parties will be held in the Boston area, unless otherwise ordered by the Court or agreed to by Liaison Counsel. The parties shall also make a reasonable effort to arrange for depositions in the Boston area of any witness.

B. Availability Of Documents Pursuant To Massachusetts Rules Of Civil Procedure, Rule 30 (b)(5); Inspection Of Documents Prior To Deposition

Each party and witness shall have available at the deposition all documents requested pursuant to Massachusetts Rules of Civil Procedure, Rule 30(b)(5). Parties shall make documents available for inspection at a reasonable time and place prior to the beginning of the deposition, but no later than twenty-four (24) hours before the deposition begins or at such other time as may be agreed upon by Liaison Counsel.

C. Ground Rules For Depositions

1. Avoiding Unnecessary Repetitive Questioning

All counsel should avoid unnecessary and repetitive questioning of witnesses.

2. Objections Reserved Until Trial; Stipulations

Unless all parties otherwise agree, all objections, except as to the form of the question, and all motions to strike any answer or any part of an answer, shall be reserved to the time of

trial and the parties should not assert any objections based on relevancy, materiality or other grounds except where objection is made upon assertion of a recognized claim of privilege. For all depositions of parties or employees of parties in these proceedings, unless otherwise directed by the Court, the parties stipulate that the filing of any deposition is waived; the deponent will be given thirty (30) days to read and sign his/her deposition; any corrections made by the witness will be made on a separate sheet or sheets of paper, and each paper will be signed by the witness; and the deposition may be signed before any notary public. At the request of the examining party, any objection as to form shall be clearly stated, with the reason given, to enable the questioner to amend or change the question to correct any possible error as to form. The witness shall then answer the question over the objection.

3. Objections Based on Claim of Privilege; Applicability of Massachusetts Rules of Civil Procedure, Rule 26(e)(7)

The witness shall answer each question posed, even if an objection has been stated, unless a recognized claim of privilege is asserted. Counsel shall not direct the witness not to answer on any other ground. During the questioning of a witness, while a question is pending, no counsel shall confer with any witness. Nothing herein shall prevent any party from seeking a protective order as described in Massachusetts Rules of Civil Procedure, Rule 26(c)(7).

4. Protocol for Deposition of Product Identification Witnesses

Defendants agree to make all good faith efforts to conduct a deposition of any witness in an efficient and timely manner. As such, whenever possible, Defendants will begin each deposition of a product identification witness by seeking product identification and exposure testimony as soon as practicable. In addition, whenever possible, a senior member of the Massachusetts defense bar will be assigned as lead discovery counsel and will conduct the initial

examination of a Plaintiff on behalf of the Defendants. Should Plaintiffs counsel not agree that such good faith efforts are being made, he/she may suspend that counsel's examination until 10:00 am the next business day to allow counsel to seek intervention by the Special Master.

D. Attendance At Deposition Noticed On The Consolidated Docket

All counsel may attend any deposition noticed on the Consolidated Docket. In particular, any third-party defendant may attend and cross-examine at depositions noticed on the Consolidated Docket.

E. Order Of Questioning By Counsel At Defendants Deposition And Process

Questioning by Plaintiffs counsel shall begin with interrogation by counsel as agreed upon by all Plaintiffs counsel, followed by interrogation by other Plaintiffs counsel as agreed. Questioning by Defendants counsel shall begin with interrogation by Defendants Liaison Counsel as agreed upon by all Defendants counsel, followed by interrogation by other Defendants counsel, in an order agreed among Defendants counsel or as decided by Defendants Liaison Counsel where such agreement cannot be reached. When the deponent is a present or former official or employee of a defendant, that Defendants counsel shall examine first, followed by Defendants Liaison Counsel and other defendants counsel in the order described above.

1. Designation of Areas of Interrogation for Non Party Witness

A notice of deposition of a witness who is not a party shall designate the areas of expected interrogation by the noticing counsel. If any other counsel desires to interrogate a witness on different matters, such counsel shall file a cross-notice of deposition and designate the areas of reasonably expected interrogation. Such areas shall be considered direct examination by that party, and as to such areas the cost of deposition shall be borne by that party. This shall be without prejudice to any party's right of examination as set forth in the next section.

2. Scope of Cross-Examination and Re-Direct

The scope of cross-examination at depositions shall not be limited to the scope of direct examination; but the scope of re-direct examination shall be limited to that of cross-examination, and the scope of re-cross examination shall be limited to that of re-direct examination. Individual counsel are directed to limit their questions so as to avoid repetitive and unnecessary interrogation in areas reasonably explored by Liaison Counsel.

F. Order Of Objections By Counsel

With the exception of a deposition of a witness who is or was employed by one of the defendants, objections by defendants shall be made in the first instance by Defendants Liaison Counsel. For depositions of a witness who is or was employed by one of the defendants, objections in the first instance shall be made by the attorney representing such defendant. Counsel representing other defendants may note their individual objections when Defendants Liaison Counsel or the individual Defendants counsel decide not to object to a question. Objections shall be made by individual defendants, and not by Liaison Counsel, when examination is conducted by counsel for co-defendants rather than counsel for plaintiffs. An objection on behalf of one defendant shall preserve that objection for all defendants.

G. Multi-Jurisdictional Depositions

Any party may conduct multi-jurisdictional depositions, either within or outside of the designated eastern counties, in connection with other asbestos litigation, with respect to the categories of witnesses which follow. At least twenty-one (21) days notice shall be given by the party noticing any such depositions, unless otherwise ordered by the Court. In the event that a party feels that the circumstances surrounding the taking of a multi-jurisdictional deposition were such as to prejudice that party's ability to fairly participate and obtain an adequate deposition, the

Court, upon motion, will consider remedial measures, including the taking of additional depositions. The witnesses to which this section applies are:

- (1) Any witness having charge of records of associations, trade, organizations, Worker's Compensation Commissions, insurance company records, or any other group or entity whose records contain documents, or whose personnel have knowledge of facts or evidence common to all pending asbestos cases;
- (2) state of the art experts;
- (3) corporate officials of the defendants; and
- (4) government officials who possess knowledge of facts or evidence relevant to all asbestos cases and not merely individual claims.

H. Discovery Depositions By Plaintiffs Of Various Corporate, Private And Public Entities

Plaintiffs Liaison Counsel may conduct within the Consolidated Docket depositions of representatives of various corporate, private and public entities pursuant to Rule 30(b)(6) of the Massachusetts Rules of Civil Procedure for the purpose of discovering whether persons were exposed to asbestos fibers and asbestos-containing products at sites owned, operated, or maintained by those entities and identifying the names of the manufacturers, sellers, installers, or other users of such fibers and products. Any disputes regarding the scope and conduct of such depositions shall be submitted to and resolved by the Special Master.

X. VIDEOTAPE DEPOSITIONS

Videotape depositions may be taken by any party upon service of proper notice of depositions, for any use permitted by the Massachusetts Rules of Civil Procedure.

A. Videotape Depositions; General Procedures

Videotaped depositions of deponents who have not been previously deposed and who are not terminally-ill or in extremis as those terms are herein defined may not be taken sooner than fifteen (15) days after the date of the taking of the witness' deposition by stenographic method

(discovery deposition). Videotape depositions of deponents who have been previously deposed in cases not covered by this Order may be taken the day following the completion of the discovery deposition, if such discovery deposition was requested.

B. Procedures And Guidelines For Conducting Videotape Depositions

The following are procedures and guidelines for conducting videotape depositions:

- (1) A conventional stenographic transcript of the deposition shall be made and all counsel may order a copy;
- (2) The camera operator and person making the videotape recording shall take an oath to record the proceedings accurately and shall certify the correctness and completeness of the recording;
- (3) The camera shall focus on each interrogating counsel for an introduction at the beginning of his or her examination. Thereafter, the camera shall focus exclusively on the witness and any demonstrative materials about which the witness is testifying;
- (4) Other matters concerning staging and photographic techniques shall be determined by the party conducting the deposition. If suggestions regarding such matters by opposing parties are not heeded, the parties may place their objections on the record;
- (5) The videotape shall run continuously throughout the deposition from beginning to end;
- (6) The party conducting the videotape deposition shall prepare a log index that includes the subject matter being explored, cross-referenced to the digital reading on the digital counter of the videotape equipment, a list of exhibits, and the names of all persons present at the deposition, conditioned on whether technical obstacles arise as to the accomplishment of these requirements;
- (7) The party conducting the videotape deposition shall bear the expense;
- (8) Unless the parties otherwise agree, all objections to the admissibility of testimony from a videotaped deposition, except as to the form of questions, and all motions to strike any answer or any part of an answer, shall be reserved until the time of trial. Any understanding concerning objections shall be stated on the record. The parties will submit all objections to the Court for rulings prior to trial. The provisions of the discovery rules of the Massachusetts Rules of Civil Procedure shall

govern the use of the written transcript of the deposition; and

- (9) No part of a videotape shall be released or made available in any way to any member of the public prior to entry of an order of the Court, upon notice to all counsel with right to object.

C. Video Depositions Of Expert Witnesses

In lieu of live testimony, the parties may present the testimony of any expert witness at trial by way of video deposition. The qualifications of any expert whose testimony is presented in that fashion shall be presented in the form of a written curriculum vitae. Any such video deposition must be edited by the video technician to eliminate any unnecessary delays in the presentation of the testimony and should be limited in time in accordance with the fair and expeditious introduction of the evidence.

D. Process For Taking Depositions Of Terminally-Ill Or In Extremis Plaintiffs

All depositions shall be conducted with due regard for physical and emotional condition, health and disability of the deponent.

1. Definition of Terminally-Ill or In Extremis Plaintiff

A plaintiff is terminally-ill or in extremis for purposes of this Order if reliance on the provisions of this Order for videotape depositions would create a substantial risk that the videotape deposition could never be held because of the declining health of the plaintiff and because of the lack of any reasonable likelihood of improvement in the Plaintiffs condition which would make a meaningful videotape deposition possible.

Videotape depositions of terminally-ill or in extremis patients may be taken no sooner than two (2) days after the date of the taking of the witness' discovery deposition if the deponent resides within fifty (50) miles of the Suffolk Superior Courthouse, or one (1) day otherwise.

2. Requirement for Medical Affidavit

In cases alleging any illness other than mesothelioma, where the deponent is terminally-ill or in extremis (as these terms have been herein defined), there shall be served together with the notice of deposition, a detailed medical affidavit indicating, with specificity, the following: (1) the deponent's present diagnosis; (2) prognosis; (3) prescribed medication, if any, that would in any way affect the deponent's mental faculties; and (4) an opinion as to the deponent's present physical and mental ability to understand and to respond to questioning and to withstand a thorough cross-examination.

3. Additional Requirements for Terminally-Ill or In Extremis Depositions in Cases Where Interrogatories Have Not Been Served Upon and/or Answered by the Plaintiff

With regard to depositions of terminally-ill or in extremis plaintiffs which have been noticed by the plaintiff, in cases where interrogatories have not been served upon and/or answered by the plaintiff, the provision contained in section X.D.1., above, concerning the timing of the taking of terminally-ill or in extremis plaintiffs shall be inapplicable, unless:

- (a) The discovery deposition notice is filed at least ten (10) working days prior to its proposed commencement;
- (b) Notice of the deposition is accompanied by: (i) copies of the Plaintiffs medical records which are in his or her counsel's possession; (ii) written authorization to review Plaintiffs hospital medical records, wherever they may be found; and (iii) a list of all repositories of Plaintiffs medical records of which Plaintiffs counsel is aware; and
- (c) Plaintiff provides answers to defendants interrogatories to the extent indicated below within four (4) working days of the filing of the deposition notice.

For purposes of this section only, Defendants interrogatories need be answered only to the extent that said interrogatories call for the disclosure of the following information:

- (i) Personal identification data of the plaintiff;
- (ii) Physical or mental conditions which may have contributed to or

accelerated the development of the injuries for which the plaintiff seeks damages;

- (iii) Names and locations of medical treatment facilities in which the plaintiff was confined, treated or examined, along with associated dates;
- (iv) The nature and extent of any permanent disabilities or residual effects;
- (v) Identification and location of physicians who diagnosed the plaintiff as having pleuritis, asbestosis or other pulmonary diseases, along with associated dates and medical institutions;
- (vi) Identification of employers and descriptions of time, place, and nature of employment, including compensation and equivalent data for periods of self-employment;
- (vii) Descriptions of the plaintiff's contact with asbestos or asbestos products; and
- (viii) Details of absences from work for periods in excess of thirty (30) days, related to health or a physical condition.

Interrogatories served pursuant to this section may be formally answered in the usual format, or the information sought may be supplied through the affidavit of the plaintiff or his counsel. The affidavits or interrogatory answers may contain the qualification that they are true and complete to the best of the knowledge of the person signing the same.

Absent compliance with the above procedures, videotape depositions of terminally-ill or in extremis plaintiffs as described in this section will not take place within fifteen (15) days after the taking of a stenographic discovery deposition.

4. Two Hour Time Limit Per Session

Unless otherwise agreed by all parties or ordered by the Court or the Special Master, no deposition of a plaintiff who is terminally-ill or in extremis as defined in this Order shall be conducted in continuous session for more than two hours. Any disputes regarding the conduct of depositions of terminally-ill or in extremis plaintiffs shall be submitted to and resolved by the

Special Master.

XI. USE OF DISCOVERY AND DEPOSITIONS FROM OTHER CASES

A. Reports On Depositions Of Defendants Employees

At the request of Plaintiffs Liaison Counsel, a defendant shall report the names of every present or former employee who has been deposed or has given trial testimony in an asbestos personal injury or property damage case, the dates of the deposition or trial testimony, the caption and docket number of the case, the jurisdiction in which the deposition or trial testimony was taken, and the name and address of the court reporter, if known. No defendant shall be obliged to provide or update such a report more than once every six (6) months.

B. Procedure For Using Any Portion Of A Prior Deposition

Any party seeking to use any portion of a prior deposition as substantive evidence at trial shall provide to Liaison Counsel no later than ninety (90) days before the scheduled trial date a marked copy of the transcript showing the testimony sought to be used and a designation of which parties against whom each deposition is sought to be admitted in evidence, together with the specific issue on which the deposition will be offered as evidence. Each party will then review the deposition and advise opposing counsel whether there is any objection to use of the preferred portions of the deposition in lieu of a new deposition of the witness. If there is no objection, Plaintiffs counsel and Defendants counsel shall file a stipulation stating that the selected portions of the deposition can be used as if noticed and taken in any of the consolidated cases. If there is an objection, the Court will determine, on motion of the party seeking to use it, whether the deposition may be used in this litigation in lieu of a new deposition of the witness. If any portion of such prior deposition is introduced as evidence at trial, the party introducing such evidence shall not oppose a proper jury instruction that limits the applicability of such evidence

to the parties against whom it was introduced.

C. Standards Of Review For Determining Use At Trial Of Prior Deposition

The standards of review for determining use at trial of the prior deposition shall be the existing rules of evidence and may include showings of good cause, relevance, economy of efforts by the Court and counsel, and no substantial prejudice to the party opposing its use, and the factors set forth below in section XI.D. The burden of persuasion shall rest with the parties seeking to use at trial deposition testimony taken in a case outside of this litigation.

D. Factors To Be Used In Determining Use Of Prior Depositions

In determining whether prior depositions may be used, the Court may in its discretion consider the following factors, among others: (1) the identity of the deponent; (2) the date of the deposition; (3) the nature of the pending case, and particularly, the place of employment, illness, product exposure, and duration of the Plaintiff's exposure to asbestos products; (4) the purposes for which the deposition was taken; (5) the deponent's area and extent of corporate responsibility, if any; (6) the deponent's knowledge, at the date of the deposition, of the matters about which he was interrogated; (7) the deponent's knowledge, at the present time, of matters about which he was or is likely to be interrogated; (8) the adequacy of the opportunity for cross-examination, particularly in light of the date, nature, and purposes of the prior deposition; (9) the issues for which evidentiary use of the deposition is sought in this litigation; (10) the degree of prejudice to the party opposing use of the prior deposition; and (11) the extent of compliance with the procedural requirements of the jurisdiction where the deposition was taken.

E. Limiting Instructions For Defendants Who Were Not Represented

If such prior depositions are approved for use at trial, an appropriate limiting instruction shall be given with respect to defendants who were not represented at the depositions or who

were not parties to the litigation in which such depositions were taken.

XII. PRE-TRIAL PREPARATION SCHEDULE

Except as otherwise directed by the Court, the schedule set forth in the next section of this Order will be applicable to all pending and future cases in the Massachusetts State Court Asbestos Personal Injury Litigation. A table summarizing major pre-trial deadline events in the form of a Trial Preparation Timeline is appended hereto as Exhibit G. To the extent the provisions of this Order are inconsistent with or contrary to any prior Orders of this Court or the attached Trial Preparation Timeline, the provisions of this Order shall supersede any such inconsistent or contrary provisions.

The time standards set forth in this Order may be extended only by order of the Court or the Special Master or by agreement by the parties, provided that any such agreement shall be subscribed to in writing by all parties affected by the agreement and approved by the Court or Special Master.

Any findings, rulings or recommendations of the Special Master pursuant to this Order shall be subject to review by the Court, but such findings, rulings or recommendations shall stand unless overruled by the Court.

XIII. ESTABLISHMENT OF TRIAL MONTHS AND TRIAL LISTS

A. Establishment Of Trial Months

After consultation with the Special Master and counsel, the Court shall determine the number of trial months for the upcoming year, designate when those trial months shall occur and determine the number of cases that shall appear on the trial list for each such month. On recommendation of the Special Master, the Court shall also designate the dates within each trial

month upon which cases will be tried and the order in which the trials shall occur. The trial schedule shall be subject to change by the Court in order to meet unforeseen circumstances and cases may be assigned to trial before additional trial judges in order to effectuate the efficient administration of justice.

B. Designation Of Trial Lists And Cases To Be Prepared For Trial

Unless otherwise directed by the Court, the Special Master shall, after consultation with the Court and counsel, designate the cases that shall appear on the trial list for each trial month, the order in which those cases shall appear and the specific cases on the list that shall be prepared by the parties for trial. The Special Master shall make those determinations based on the chronological order of the case filings, the disease mix involved in the cases on the trial list, and the disease mix for the litigation as a whole, the exigent condition of the Plaintiffs health, grouping of cases by Plaintiffs counsel, defendant or case type, or such other factors as the Special Master finds will promote the fair and efficient resolution of cases by settlement or trial.

The primary objective to be served in the designation of trial lists in the near future is to eliminate the backlog of asbestos personal injury cases to the point where cases shall be reached for trial or otherwise fully resolved within three years of the filing of the complaint. Toward that end, cases that have been pending for more than three years will be given priority, regardless of other factors. Cases involving plaintiffs who are terminally-ill or in extremis may also be advanced on the trial list, however, if such advancement is consistent with the principles of equity and fairness.

The Court expects that as of January 1st of every year, no asbestos personal injury case shall remain without an entered judgment except those cases commenced within the preceding three years. Failure to meet this expectation will result in substantial modification of the current

Order.

In order to meet the Court's objectives on case dispositions and to provide for the fair and expeditious resolution of cases in the Consolidated Docket, it is contemplated that trial lists each consisting of approximately fifty cases shall be designated for four months in each calendar year. It is further contemplated that six cases on each such list shall be designated for intensive preparation and trial. This schedule may be altered if deemed necessary by the Court to meet the Court's case disposition objectives. Prior to implementing any such change, the Court shall consider whether any related changes should also be made in the pre-trial preparation procedures and time standards set forth in this Order.

The Special Master shall issue the proposed trial list at least one hundred and eighty (180) days prior to the scheduled trial date for which the list applies. The Special Master shall designate the specific cases on the list which shall be prepared by the parties for trial at least one hundred and seventy (170) days prior to the scheduled trial date. Any case appearing on a trial list that has not been designated for trial will not be called for trial during the trial month unless the Court or Special Master first notifies the parties of the change in designation of the case and determines that there is an adequate period for pre-trial preparation between the date of such notice and the date upon which the case shall be tried.

If a motion to amend a complaint to add a defendant is filed after a case has been placed on a trial list, the Court shall consider whether allowance of the motion would necessitate a delay in the proceedings in order to permit the added defendant to prepare for trial. If the Court allows the motion on good cause shown and it concludes that such a delay in the proceedings will be required, either the entire case will be removed from the trial list or the claim added by the amendment will be severed from the case and removed from the trial list.

C. Pre-Trial Preparation Schedule And Deadlines

1. Dismissals by Plaintiffs (170 Days) and Transfers to Inactive Docket

Plaintiffs counsel may dismiss any case appearing on the trial list at any time up to on hundred and seventy (170) days before the scheduled trial date as determined by the Special Master. Counsel may transfer such cases to the inactive asbestos docket only by leave of the Court or the Special Master. Any case so dismissed or transferred may only be replaced by another case to be added to the trial list pursuant to the directions of the Court or the Special Master.

2. Motions to Amend Add an Additional Party (150 Days)

All motions by any party to add an additional party in any case appearing on the trial list, whether by joinder of an additional defendant or by impleader of a third party defendant, shall be filed no later than one hundred and fifty (150) days before the scheduled trial date as determined by the Special Master. Any such motion filed by a plaintiff shall be served on local counsel for the additional party sought to be added, if known, in accordance with the procedures set forth in Pre-Trial Order No. 8 and shall be accompanied by the Plaintiffs Disclosure Form, supplemented by reference to the additional party, and a certification by the plaintiff identifying all defendants who, at the time of filing of the motion, are subject to claims by the plaintiff that have not been dismissed, transferred to an inactive docket or settled. A copy of such motion shall be served in accordance with Pre-Trial Order No. 8 and, if opposed, shall be submitted to the Special Master as provided for in Pre-Trial Order No. 8 who shall make a recommendation to the Court on the motion and on the question of whether the case should be continued or the claim severed under the provisions of section VII. A.2.

3. Closure of Product Identification and Exposure Discovery (90 Days)

With respect to each of the cases on the trial list that have been designated by the Special Master for trial preparation, each plaintiff and defendant may conduct discovery on the issues of product identification and exposure at any time up to ninety (90) days before the scheduled trial date as determined by the Special Master, including plaintiff and co-worker depositions and Massachusetts Rules of Civil Procedure, Rule 30(b)(6) depositions of identified defendants. Discovery on the issues of product identification and exposure shall be closed for those cases as of ninety (90) days before the scheduled trial date as determined by the Special Master unless, at the request of a party, the Court or Special Master permits an extension of the product identification and exposure discovery deadline for good cause shown. Any party requesting such an extension shall specify the grounds upon which the extension is sought and the additional discovery that the party proposes to conduct during the extension. Any such extension granted by the Court or Special Master shall specify the parties affected by the extension, the discovery to be permitted during the extension, and the deadline for completion of that discovery. If the Court or Special Master finds that a plaintiff intentionally delayed supplementation of the Plaintiffs Disclosure Form in order to prejudice the Defendants ability to conduct discovery under this section, then in lieu of such an extension, the Court or Special Master may make such order as justice requires, including, but not limited to, removal of the case from the trial list, dismissal and monetary sanctions.

4. Plaintiffs Motion to Dismiss (90 Days)

No later than ninety (90) days before the scheduled trial date as determined by the Special Master, the plaintiff in each of the cases on the trial list designated by the Special Master

for trial preparation shall file a motion to dismiss those defendants against whom the plaintiff does not intend to proceed.

5. Plaintiffs Supplementation of Disclosure Form (90 Days)

No later than ninety (90) days before the scheduled trial date as determined by the Special Master, the plaintiff in each of the cases on the trial list that have been designated by the Special Master for trial preparation may supplement the Plaintiffs Disclosure Form with respect to product identification, defendant status and exposure. Thereafter, a plaintiff may not proffer any evidence to support a claim as to product identification, defendant status or exposure which has not been included in his Plaintiffs Disclosure Form except by leave of the Court, on good cause shown, based on either:

- (a) The following findings:
 - (i) receipt of new information not previously in the plaintiffs ken;
 - (ii) prior due diligence by plaintiff in attempting to discover the new information; and
 - (iii) substantial prejudice to the plaintiff from denial of the amendment; or
- (b) A finding that the prior non-disclosure of the information was due to fraud, misrepresentation, misconduct or material failure to comply with discovery requests by an adverse party.

6. Motions for Summary Judgment (75 Days) and Oppositions to Motion for Summary Judgment (10 Days Thereafter)

With respect to each of the cases on the trial list that have been designated by the Special Master for trial preparation, any defendant may, no later than seventy-five (75) days before the scheduled trial date as determined by the Special Master, serve upon the plaintiff a motion for summary judgment. Oppositions to such motions shall be due from the plaintiffs within ten (10)

days thereafter. The provisions of Pre-Trial Order No. 8 shall govern this motion practice. The Special Master, if he or she deems necessary, shall hold a hearing on said motions and shall make recommended rulings to the Court. Motions for summary judgment based on information discovered fewer than seventy-five (75) days before the scheduled trial date as determined by the Special Master may, in the Court's discretion, be considered and ruled upon before the scheduled trial date.

7. Further Pre-Trial Preparation Schedule

With respect to each of the cases on the trial list that have been designated by the Special Master for trial preparation, the following pre-trial preparation schedule shall apply:

a) Authorizations and Record Requests (150 Days)

No later than one hundred and fifty (150) days before the scheduled trial date as determined by the Special Master, Plaintiffs counsel shall provide to Defendants Liaison Counsel a signed copy of three (3) authorization forms allowing Defendants counsel to obtain written medical and other relevant records. Each Defendants counsel shall provide to Plaintiffs counsel copies of all documents, records and exhibits that the defendants have obtained through the use of any authorization forms received from the plaintiff as soon as they are received by the defendant. Defendants are under a continuing obligation to supplement this information. Plaintiff may supplement his or her exhibit list in response to information received from the defendants pursuant to this provision after the date for identifying exhibits. Plaintiffs are likewise under a continuing obligation to supplement responses to requests for production of documents by providing defendants with copies of medical and other relevant records as they are received. Defendants may supplement their exhibit lists in response to information so received from the plaintiff after the date for identifying exhibits.

b) Discovery Responses and Supplements (150 Days)

No later than one hundred and fifty (150) days before the scheduled trial date as determined by the Special Master, all parties shall respond or supplement any previous responses, as required, to standard discovery requests relevant to these cases, including interrogatories and requests for production of documents.

c) Delivery of Medical Materials (105 Days and 60 Days); Plaintiffs Expert Witness Designations and Certification of Prior Testimony (105 Days); and Depositions of Plaintiffs Expert Witnesses (20 Days)

No later than one hundred and five (105) days before the scheduled trial date as determined by the Special Master, plaintiffs shall furnish Defendants counsel with all pathology samples and reports, x-rays, CT scans and other diagnostic test results in Plaintiffs possession. All such materials shall be returned to the plaintiff no later than sixty (60) days before the scheduled trial date as determined by the Special Master. No later than one hundred and five (105) days before the scheduled trial date as determined by the Special Master, plaintiff shall file lists of the names and addresses of the expert witnesses whose testimony plaintiff will offer at trial, together with a disclosure statement pursuant to Massachusetts Rules of Civil Procedure, Rule 26(b). There will be no depositions of expert witnesses except as necessary and upon issues with regard to which the witness has not previously been deposed or testified in the pending case or in any other asbestos case, state or federal, anywhere in the United States, so long as plaintiff provides defendants with a transcript or transcripts of the witness' prior testimony and certifies that the witnesses' testimony at trial will be consistent with such prior recorded testimony. Any such deposition shall be limited to issues upon which the expert will testify in the pending case, and must be conducted no later than twenty (20) days before the scheduled trial date as determined by the Special Master.

d) Defendants Expert Witness Designations and Certification of Prior Testimony (60 Days): and Depositions of Defendants Expert Witnesses (10 Days)

No later than sixty (60) days before the scheduled trial date as determined by the Special Master, defendants shall file a list of the names and addresses of the expert witnesses whose testimony they will offer at trial, together with a disclosure statement pursuant to Massachusetts Rules of Civil Procedure, Rule 26(b). There will be no depositions of expert witnesses except as necessary and upon issues with regard to which the witnesses have not previously been deposed or testified in the pending case or in any other asbestos case, state or federal, anywhere in the United States so long as defendants provide plaintiff and all other defendants who request same with a transcript or transcripts of the witnesses' prior testimony and certify that the witnesses' testimony at trial will be consistent with such prior recorded testimony. Any such depositions shall be limited to issues upon which the expert will testify in the pending case, and they must be conducted no later than ten (10) days before the scheduled trial date as determined by the Special Master.

e) Video Depositions of Expert Witnesses

Any expert witness' deposition may proceed, without leave of the Court or the Special Master, by video, provided that the witness' qualifications shall be proffered only by written curriculum vitae, marked as an exhibit.

f) 30(b)(6) Depositions (60 Days)

No later than sixty (60) days before the scheduled trial date as determined by the Special Master, all depositions of witnesses under Massachusetts Rules of Civil Procedure, Rule 30(b)(6) on issues other than product identification, defendant status and exposure shall be completed. No such depositions may be conducted after that date, unless leave is granted by the Court or the

Special Master for good cause shown.

g) Plaintiffs Lay Witness Designations (60 Days); and Depositions of Plaintiffs Lay Witnesses (30 Days)

No later than sixty (60) days before the scheduled trial date as determined by the Special Master, plaintiff shall file lists of the names and addresses of the lay witnesses whose testimony plaintiff will offer at trial accompanied by a short statement of the anticipated testimony of each witness and the dates on which each witness will be made available for deposition, provided that witnesses previously deposed under the provisions of section XIII.C.3., above, may not be deposed again under this section. Such depositions shall be conducted with all reasonable dispatch and no later than thirty (30) days before the scheduled trial date as determined by the Special Master. Unless otherwise ordered by the Court or Special Master, plaintiff need not make a lay witness available for deposition, so long as plaintiff provides defendants with transcript(s) of the witness' prior testimony and certifies that the witness testimony at trial will be consistent with such prior recorded testimony. Any party may seek the assistance of the Special Master if problems arise relating to depositions of lay witnesses.

h) Defendants Lay Witness Designations (40 Days); and Depositions of Defendants Lay Witnesses (10 Days)

No later than forty (40) days before the scheduled trial date as determined by the Special Master, defendants shall file lists of the names and addresses of the lay witnesses whose testimony they will offer at trial, accompanied by a short statement of the anticipated testimony of each witness and of the dates for which each witness will be made available for deposition; provided that witnesses previously deposed under the provisions of section XIII.C.3., above, may not be deposed again under this section. Such depositions shall be conducted with all reasonable dispatch and no later than ten (10) days before the scheduled trial date as determined by the

Special Master. Unless otherwise ordered by the Court or the Special Master, defendants need not make a lay witness available for deposition, so long as defendants provide plaintiff and other defendants who request same with transcript(s) of the Witness' prior testimony and certify that the witness' testimony at trial will be consistent with such prior recorded testimony. Any party may seek the assistance of the Special Master if problems arise relating to the deposition of lay witnesses.

i) Plaintiffs Exhibit Lists (30 Days)

No later than thirty (30) days before the scheduled trial date as determined by the Special Master, plaintiff will provide the defendants with a list of the exhibits plaintiff will offer at trial and the defendant(s) against which each exhibit will be offered.

j) Plaintiffs Deposition Designations (30 Days): and Plaintiffs Page and Line Designations (10 Days)

No later than thirty (30) days before the scheduled trial date as determined by the Special Master, plaintiff will provide the defendants with lists of the deposition testimony that plaintiff will offer at trial. Plaintiff shall designate the pages and lines to be read and the defendant(s) against which each portion of testimony will be offered no later than ten (10) days before the scheduled trial date as determined by the Special Master.

k) Defendants Exhibit Lists (20 Days)

No later than twenty (20) days before the scheduled trial date as determined by the Special Master, defendants will provide plaintiff with lists of the exhibits they will offer at trial.

l) Defendants Deposition Designations (20 Days); Defendants Page and Line Designations (10 Days); and Proposed Introduction of Plaintiffs Testimony (48 Hours) and Defendants Testimony (24 Hours)

No later than twenty (20) days before the scheduled trial date as determined by the

Special Master, defendants will provide plaintiff with lists of the deposition testimony that they will offer as part of their case-in-chief at trial. Defendants shall designate the pages and lines to be read no later than ten (10) days before the scheduled trial date as determined by the Special Master. Defendants will designate the deposition testimony they will offer in response to deposition testimony actually introduced at trial by plaintiff at least twenty-four (24) hours prior to the introduction of such testimony and the plaintiff shall give at least forty-eight (48) hours notice of the proposed introduction of such testimony.

m) Joint Meeting for Pre-Marking of Exhibits and Use of Depositions (10 Days)

No later than ten (10) days before the scheduled trial date as determined by the Special Master, the parties shall meet to agree upon the pre-marking of exhibits and use of depositions, and they shall file with the Court a joint list of exhibits and designations of deposition testimony to be offered into evidence. Those exhibits or depositions challenged by the opposing party shall be set aside for discussion prior to trial.

n) Joint Motions in Limine and Proposed Voir Dire and Special Jury Questions (5 Days)

No later than five (5) days before the scheduled trial date as determined by the Special Master, the parties shall file any motions in limine, as well as any proposed questions to be asked on jury voir dire or as special jury questions. Any motion in limine pertaining to deposition text shall be accompanied by copies of the appropriate transcript pages. The Court will ordinarily decide such motions without argument.

o) Bankruptcy Trust Claims Discovery

1) Limitations and Effect

In recognition of the confidentiality provisions of the various bankruptcy trusts and trust

distribution procedures, and in recognition of the existence of differing standards of proof in bankruptcy claims versus civil litigation, the information produced hereto may be used only for purposes related to the litigation of cases under the Massachusetts Asbestos Litigation docket, and shall not be disclosed or used for any other purpose without Order of the Court. Leave of Court should not be granted absent extraordinary circumstances. Unauthorized disclosure of this information shall be subject to sanctions. Further, admissibility and weight of any document or information produced hereto shall be determined on a case-by-case basis, and shall not be introduced at trial except as specifically directed by the Court.

2) Procedure

- a) Plaintiffs will produce the product exposure section of bankruptcy claim forms that have been filed on behalf of the Plaintiff within ninety (90) days of a determined trial date. Plaintiffs have a continuing duty to supplement this information through trial. Any amounts received will be redacted from the documents provided to Defendants.
- b) Any payment made to a Plaintiff by an asbestos bankruptcy trust acts as a dollar-for-dollar set-off of any damages awarded to a Plaintiff in a tort trial in those cases in which Massachusetts law is applied.
- c) Plaintiffs will assign to Defendant all asbestos bankruptcy trust claims to which a Plaintiff is entitled upon payment of a verdict in favor of a Plaintiff. Plaintiff agrees to cooperate in good faith with a Defendant(s) against whom a verdict is rendered in determining and filing any asbestos bankruptcy trust claims to which a Plaintiff is entitled to compensation.
- d) Notwithstanding the foregoing, nothing in this Pre-Trial Order shall preclude any party from seeking the disclosure, after jury empanelment, of the amounts Plaintiff has received in connection with the bankruptcy claims.
- e) Within thirty days of trial, Plaintiff will serve a certification with the Middlesex County Clerk's Office of the Superior Court that all known bankruptcy claims have been filed.

XIV. PROVISIONS FOR ALL CASES REGARDING REQUIREMENTS OF THE MEDICARE MEDICAID AND SCHIP EXTENSION ACT SEC. 111 AND MEDICARE'S RIGHT OF RECOVERY UNDER THE MEDICARE SECONDARY PAYER ACT

In an effort to a) facilitate the compliance of the parties to this litigation with the requirements of the Medicare, Medicaid and SCHIP Extension Act of 2007. (PL 110-173) Section 111, (MMSEA Section 111), b) facilitate Medicare's (includes Centers for Medicare and Medicaid Services and Medicare Secondary Payer Recovery Contractor, Coordination of Benefits Contractor, hereinafter collectively referred to as Medicare) right of recovery under Medicare Secondary Payer Act, 42 U.S.C. Sec. 1395y, et seq. (MSP) and any rules and regulations promulgated thereunder, and c) facilitate the compliance of the parties to this litigation with the requirements of the Massachusetts Data Privacy Act; and with the understanding that Plaintiffs shall mean injured person and/or authorized representative of injured person and loss of consortium claimant, the following provisions shall apply, and shall be the sole requirements for the exchange of documents and information between the parties for cases covered by this Order.

A. For Filings in Massachusetts State Court Asbestos Personal Injury Actions

1. Form A-1 - Query Information

- a) In cases filed after the date of entry of this Order, within one year of filing the complaint, each Plaintiff shall complete and serve upon Defendants, the attached Form A-1 in conjunction with serving a completed and executed Plaintiffs Disclosure Form. In addition to Plaintiffs Disclosure Form, Form A-1 shall be served upon any new Defendant sought to be added to a case by a Plaintiffs motion to amend the complaint at the time of the initial filing by Plaintiff and/or at time of filing Plaintiffs Disclosure Form.

- b) In cases already filed, each Plaintiff shall complete and serve upon Defendants Form A-1 within 90 days of the entry of this Order if the date upon which Plaintiff is required to serve a completed and executed Plaintiffs Disclosure Form has passed. Otherwise, Form A-1 shall be served in conjunction with Plaintiffs Disclosure Form.
- c) In any cases already scheduled for trial as of the date of entry of this Order, within 90 days of the date of entry of this Order, each Plaintiff shall complete and serve upon Defendants Form A-1. If any cases are scheduled for trial within 90 days of the date of entry of this Order, then Form A-1 must be submitted within ten [10] days after the entry of this Order.
- d) In cases where Plaintiffs counsel is seeking exigent case status and an expedited trial date, each Plaintiff shall complete and serve upon Defendants Form A-1 together with Plaintiffs Disclosure Form, responses to standard discovery, and authorizations.

2) Form B - Reporting Information

For cases involving a Medicare-eligible Plaintiff, as a condition of any settlement and prior to the issuance of any payment, Plaintiff will promptly complete in full and return the Reporting Form (Form B) to settling Defendants along with the release or settlement agreement. No settlement is full, final or enforceable until Form B is completed. If a Defendant and/or its insurers intends to report ICD-9 or ICD-10 Codes that are inconsistent with the information provided by Plaintiff on Form B, prior to doing so, Defendant will notify Plaintiff of the information to be reported within ten [10] days, and will agree to meet and confer prior to the filing of the report in an attempt to resolve inconsistencies to the extent possible.

3) Form B – Not Required

There is no obligation to provide Form B in the following instances:

- a) Claimant has provided to counsel for the settling party an executed Affidavit of Plaintiff regarding Medicare non-eligibility, incorporated herewith as Form D.

- b) The parties agree that evidence in the case establishes exposure to Defendants product, premises, or conduct occurred before December 5, 1980 and there are no pending allegations that exposure to Defendants product, premises or conduct occurred on or after December 5, 1980.

B. Filing/Distribution of Forms Required by the Order

Except as provided in Paragraph F, below, filing/distribution of all forms required by this Order and all related correspondence to the parties shall be made so as to limit distribution of Social Security Numbers (SSN) or other personal/private information to the parties, their attorneys, and their insurers.

C. Purpose

Plaintiff is to complete and provide Forms A-1 and B (the Data Forms) to the settling Defendants counsel of record. Defendants may use these Forms for the limited purpose of facilitating compliance with MSP and MMSEA Section 111 rules and regulations and not for any other purpose.

D. Other Data Forms

The Court is satisfied that Medicare Data Forms (as such Forms or reporting information requirements may be amended by Medicare) are sufficient to permit the parties to assess whether a Plaintiff or Plaintiffs decedent is likely to be Medicare eligible. Plaintiff will not be compelled to complete any forms submitted for this limited purpose other than the Data Forms attached, except upon order of the Court or as directed by Medicare. Completion of these forms will not eliminate any discovery obligations that otherwise exist under the Massachusetts Rules of Civil Procedure and Massachusetts Asbestos Litigation Pre-Trial Orders. Nothing herein shall be construed to limit the documentation lawfully required by Medicare.

E. Confidentiality

Plaintiffs, their Counsel, the Recipients of completed Data Forms, meaning Defendants, Defendants insurers, any person or entity defined as a Responsible Reporting Entity (RRE) under MMSEA Section 111, and their authorized representatives and agents, shall not file the Data Forms with this Court, or in any other state or federal judicial forum, except as provided in Paragraph F, below, without an order of Court.

F. Permissible Use/Distribution

Defendants Counsel are allowed to distribute completed Data Forms to their clients, their client's insurers, their client's national coordinating counsel, and any person or entity defined as an RRE and/or their authorized representatives and agents for their use in reporting under MMSEA Sec. 111 and for other purposes associated with facilitation of Medicare's right of recovery under MSP, including providing the forms to Medicare. Attorneys for the parties, the parties themselves, their insurers and agents are prohibited from disclosing or disseminating the Data Forms or the information obtained solely from the Data Forms to any other person or entity other than Medicare, except as is reasonably required to a) determine Medicare eligibility status; b) report as required under MMSEA Section 111; or c) communicate with the U.S. Government or its designee or any other person or entity necessary for the defense of any claim relating to the requirements of MSP and MMSEA Section 111, subject to federal and state privacy law requirements.

G. Impermissible Use or Distribution

Unauthorized use or unlawful distribution of the Social Security Numbers collected under this Order in violation of the Massachusetts Data Privacy Act will be subject to the Court's power to impose sanctions.

H. Procedures for Protection of Medicare's Right of Recovery

1. Notice to Medicare

If Plaintiff or Plaintiffs decedent is or was Medicare eligible, then Plaintiffs counsel shall notify Medicare no later than 14 days after the date that the case is assigned to a trial list. For cases that have been assigned to a trial list as of the date of this Order, Plaintiffs counsel shall notify Medicare no later than 30 days after the date of this Order.

2. Settlement

Upon the settlement of a claim where Plaintiff/Plaintiffs decedent is Medicare eligible and the exposure established, specifically or generally claimed/alleged or specifically released as to Defendants product, premises, or conduct was both before and after or entirely after December 5, 1980 (Mixed or Post-December 5, 1980 Claims), the parties will proceed as outlined in subparagraphs 2(a) through (d) below. Upon settlement of a claim where Plaintiff/Plaintiffs decedent is not Medicare eligible, the parties agree to proceed as outlined in paragraph I below. Upon settlement of a claim where there is no post December 5, 1980 exposure established, specifically or generally claimed/alleged or specifically released as to Defendants product, premises or conduct (Pre-December 5, 1980 Claims), the parties agree to use Form C-2 entitled: Only Pre-12/5/80 Exposure Specifically or Generally Claimed/Alleged, Established or Specifically Released (as referenced in subparagraph 2(d) below). Claims will be determined to be Pre-December 5, 1980 Claims at or prior to the negotiation and confirmation of a settlement. If such determination cannot be reached, the parties will proceed as outlined in subparagraph 2(e) below.

a) Escrow/Trust Account

If Plaintiff or Defendants and/or their insurers determine that Plaintiff is or was, or Plaintiffs decedent was Medicare eligible, Plaintiffs counsel shall hold the settlement amount (less the procurement costs, see 42 C.F.R. § 411.37) in an escrow account, client trust account or other like account. If Plaintiff or Plaintiffs counsel receives a notice from Medicare demanding final payment that is in excess to the amount of funds held in an escrow account trust, then he/she/they shall use his/her/their best efforts to resolve such a demand by Medicare. If Plaintiff or Plaintiffs counsel fails to resolve a demand for payment asserted by Medicare then he/she/they shall notify Defendants within 30 days. If Defendants receive a notice from Medicare demanding payment, then they shall notify Plaintiffs counsel within 30 days and Plaintiff and Plaintiffs counsel shall use his/her/their best efforts to resolve such a demand by Medicare.

b) Payment of Medicare Reimbursement

Release of Funds From Escrow/Trust Account: Once Plaintiffs counsel has received a waiver, final demand, case closure letter, or other documentation from Medicare or, as agreed upon by the parties, its authorized entity, confirming that Plaintiffs obligation to Medicare is satisfied for claims arising from or related to Plaintiffs asbestos-related personal injury or wrongful death claims, and Plaintiffs counsel has paid the Medicare recovery claim, if any, Plaintiffs counsel may then pay the settlements to the client(s) upon providing to settling Defendants a copy of the waiver letter or case closure letter, and/or other documentation from Medicare or, as agreed upon by the parties, its authorized entity, confirming that Plaintiffs obligation to Medicare is satisfied. If a lien has been satisfied but such documentation is not available, then Plaintiffs counsel may provide a copy of the final demand letter from Medicare along with proof of payment of the Medicare lien. Proof of payment pursuant to terms of the release and this Order means a copy of a check payable to Medicare or its recipient entity with an

amount matching that of the final demand and the accompanying letter to Medicare enclosing the check. Plaintiffs counsel may redact the bank name, routing number, account number and signature from the check. When a case closure letter is available it shall be forwarded to the Defendants upon receipt.

c) Payment of Settlement Proceeds

Payment of settlement proceeds to Plaintiffs counsel to be held in escrow is not conditioned upon Plaintiff providing proof that all Medicare reimbursement claims and obligations have been satisfied, subject to the provisions of Paragraphs A(2), H(2)(a) and H(2)(b) of this Order. Nothing in this Order shall be construed to limit the responsibility of any party to comply with all lawful Medicare obligations.

d) Medicare Addenda

In cases where Plaintiff is Medicare Eligible, unless mutually agreed upon by the parties and their insurers, the parties agree to the use of uniform Medicare Addenda, incorporated herewith as Form C-2 Only Pre-12/5/80 Exposure Specifically or Generally Claimed/Alleged, Established or Specifically Released and Form C-1 Exposure On Or After 12/5/80 Specifically or Generally Claimed/Alleged, Established or Specifically Released. The Medicare Addenda and this Order shall be the exclusive documents setting forth the rights and responsibilities of the parties regarding the settlement of Massachusetts Asbestos Litigation cases involving potential Medicare claims.

e) Pre-December 5, 1980 Exposure Contest

Should the categorization of a claim as involving Pre-December 5, 1980 exposure be contested, the basis of the disagreement shall be provided to the other party and after the parties have had the opportunity to meet and confer regarding the disagreement, then either party may

submit the disagreement to the Special Master. The Special Master shall determine whether there are any allegations or evidence of exposure on or after December 5, 1980. The dispute before the Special Master and the Special Master's determination shall be on the record. The Special Master's determination shall be reviewable by the Superior Court.

I. Where Plaintiff Is Not Medicare Eligible

In cases where at the time of settlement it is established that Plaintiff and/or Plaintiffs decedent is not or was not Medicare eligible, the Reporting Information Form B shall not be required, the Medicare Addendum shall not be required as part of the settlement documents, and the settlement proceeds do not need to be held in escrow and may be distributed in accordance with the applicable provisions of Mass. Gen. Laws. In such a case, the Plaintiff will provide an executed Affidavit of Plaintiff regarding Medicare non-eligibility incorporated herewith, as Form D. In the event Defendant disagrees with the contention that Plaintiff is not Medicare eligible, Defendant will promptly notify Plaintiffs counsel of such disagreement along with the basis of the disagreement and after the parties have had the opportunity to meet and confer regarding the disagreement then either party may submit the disagreement to the Special Master. The Special Master shall make a factual finding as to whether there is any evidence of Medicare eligibility. The dispute and the Special Master's finding shall be on the record. The Special Master's finding shall be reviewable by the Superior Court upon request of a party in accordance with Pretrial Order No. 9, within thirty (30) days of notification of the Special Master's finding, subject to enlargement or limitation by the Special Master in special circumstances. If, after Superior Court review, the Court makes a factual finding that there is no evidence of Medicare eligibility, then no Medicare Addendum shall be required as a part of the settlement documents. If, after Superior Court review, a factual finding is made that there is evidence of Medicare

eligibility, then the matter will be handled in accordance with the terms and conditions of this Order pertaining to resolving a case involving a Medicare eligible Plaintiff and/or Plaintiffs decedent. Nothing in this Order shall limit the responsibility of any party to comply with lawful Medicare obligations.

J. Settlement Payments

Any claims of untimely payment of settlement proceeds may be submitted to the Court for

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resolution. Settlements must be paid in full to Plaintiffs counsel within 60 days of the Defendants receipt of an agreed executed Release, Medicare Addendum and all necessary information for reporting to Medicare, unless another time period is otherwise agreed to.


K. Medicare Changes and Clarifications

The provisions of this Order with respect to Section XIV are subject to revision with leave of court should the statutes, rules, regulations and practices of the federal government, including MMSEA Section 111, MSP and any rules and regulations promulgated thereunder, change.

XV. MOTIONS FOR ADMISSION PRO HAC VICE

All Motions for admission *pro hac vice* must comply with Rules of the Supreme Judicial Court, including Rule 3:15 (effective September 4, 2012). Motions for admission *pro hac vice* shall be filed in each case in which admission is sought (not in the consolidated docket); and must certify that the appropriate fee, if any, has been paid to the Board of Bar Overseers, or other payee designated by the Supreme Judicial Court. The affidavit(s) in support of the Motion must acknowledge that a Massachusetts attorney will accompany the out-of-state attorney at all court-ordered proceedings.

SO ORDERED THIS 27th day of June, 2012.

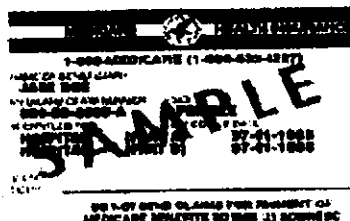

Charles J. Hely
Justice of the Superior Court

The Centers for Medicare & Medicaid Services (CMS) is the federal agency that oversees the Medicare program. Many Medicare beneficiaries have other insurance in addition to their Medicare benefits. Sometimes, Medicare is supposed to pay after the other insurance. However, if certain other insurance delays payment, Medicare may make a "conditional payment" so as not to inconvenience the beneficiary, and recover after the other insurance pays.

Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA), a new federal law that became effective January 1, 2009, requires that liability insurers (including self-insurers), no-fault insurers, and workers' compensation plans report specific information about Medicare beneficiaries who have other insurance coverage. This reporting is to assist CMS and other insurance plans to properly coordinate payment of benefits among plans so that your claims are paid promptly and correctly.

We are asking you to answer the questions below so that we may comply with this law.

Please review this picture of the Medicare card to determine if you have, or have ever had, a similar Medicare card.



Section I

Are you presently, or have you ever been, enrolled in Medicare Part A or Part B?												<input type="checkbox"/> Yes		<input type="checkbox"/> No	
If yes, please complete the following. If no, proceed to Section II.															
Full Name: (Please print the name exactly as it appears on your SSN or Medicare card if available.)															
Medicare Claim Number:										Date of Birth (Mo/Day/Year)		-		-	
Social Security Number: (If Medicare Claim Number is Unavailable)										-		-		Sex <input type="checkbox"/> Female <input type="checkbox"/> Male	

Section II

I understand that the information requested is to assist the requesting insurance arrangement to accurately coordinate benefits with Medicare and to meet its mandatory reporting obligations under Medicare law.

Claimant Name (Please Print)

Claim Number

Name of Person Completing This Form If Claimant is Unable (Please Print)

Signature of Person Completing This Form

Date

If you have completed Sections I and II above, stop here. If you are refusing to provide the information requested in Sections I and II, proceed to Section III.

Section III

Claimant Name (Please Print)

Claim Number

For the reason(s) listed below, I have not provided the information requested. I understand that if I am a Medicare beneficiary and I do not provide the requested information, I may be violating obligations as a beneficiary to assist Medicare in coordinating benefits to pay my claims correctly and promptly.

Reason(s) for Refusal to Provide Requested Information:

Signature of Person Completing This Form

Date

Medicare Confidential Reporting Information*

Pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (Rev 10-11)

Case Name:	Case Number:	17. State of Venue: <small>(USPS Abbreviation)</small>
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Defendant Name:

Is the injured party presently or has he/she ever qualified for or been enrolled in Medicare Part A, B, C or D?
 Yes No

Section A ALLEGED INJURED PARTY INFORMATION *(If a party is DECEASED, also complete Section D. If living, provide address in Section G)*

4. Medicare Claim Number:
(Also known as HCENI)

5. Social Security Number: 6. Injured Party Last Name:
(Please print name as it appears on Social Security card.)

7. Injured Party First Name:
(Please print name exactly as it appears on Social Security card.)

8. Injured Party Middle Name:
(Please print name exactly as it appears on Social Security card.)

9. Gender: 10. Date of Birth: Deceased? Date of Death: (MM/DD/YYYY):
 Male Female (MM/DD/YYYY) Yes No

Section B ALLEGED INCIDENT INFORMATION

12. CMS Date of Incident: Please state the date of the accident or date of first exposure, ingestion, or implantation with respect to settling defendant's products and/or premises (MM/DD/YYYY):

13. Industry Date of Incident: Please state the date of accident or date of first exposure, ingestion, or implantation with respect to settling defendant's products and/or premises (MM/DD/YYYY):

15. Alleged Cause of Injury, Illness or Incident ("e" codes only - no "v" codes):

19. ICD-9 Diagnosis Code 1 (no decimal):
Provide valid ICD-9 CM Codes for any injury or illness you allege arose from the allegations made against settling defendant.

21. ICD-9 Diagnosis Code 2: 23. ICD-9 Diagnosis Code 3: 25. ICD-9 Diagnosis Code 4: 27. ICD-9 Diagnosis Code 5: 29. ICD-9 Diagnosis Code 6:

Description of Illness/Injury (Free Form Text Description):

Section C ALLEGED INJURED PARTY'S ATTORNEY or OTHER REPRESENTATIVE INFORMATION

84. Claimant Representative Type (please check one):
 A-Attorney P-Power of Attorney G-Guardian/Conservator O-Other

85. Claimant Representative Last Name: 86. Claimant Representative First Name: 87. Claimant Representative Firm Name:

88. TIN/EIN, if Firm Entity; SSN, if Individual: 89-90. Representative Mailing Address:

91. City: 92. State: 93-94. Zip Code +4: 95. Phone: 96. Ext. (if any):

Section D CLAIMANT INFORMATION *(Use only if Alleged Injured Party in Section A is deceased)*
If Section D Claimant has a representative other than Section C Representative, complete Section F

104. Claimant Relationship to Alleged Injured Party (please check one):
 E-Estate (Individual) X-Estate (Entity) F-Family (Individual) F-Family (Entity) O-Other (Individual) Z-Other (Entity)

105. TIN/EIN (Social Security, if individuals): 106. Claimant Last Name:
107. Claimant First Name: 108. Claimant Middle Initial:

109. Claimant Entity/Organization Name:
110. Mailing Address:

112. City: 113.State: 114. Zip Code+4: 116. Phone: 117. Ext. (if any):

Section E SETTLEMENT INFORMATION

100. Date of Settlement: 101. Amount of Settlement:

Medicare Confidential Reporting Information*

Pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (Rev 10-11)

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Section A-LOC LOSS OF CONSORTIUM PLAINTIFF INFORMATION
THIS SECTION MUST BE COMPLETED ONLY IF THE NON-EXPOSED PLAINTIFF(S) ALLEGES LOSS OF CONSORTIUM, IS MEDICARE ELIGIBLE AND EFFECTIVELY RELEASES MEDICAL CARE/TREATMENT
PROVIDE ESTATE INFORMATION IN SECTION D

4-LOC. Medicare Claim Number: <small>(If known as HCPC)</small>			
5-LOC. Social Security Number:		6-LOC. Last Name: <small>(Please print name exactly as it appears on Social Security card)</small>	
7-LOC. First Name: <small>(Please print name exactly as it appears on Social Security card)</small>		8-LOC. Middle Name: <small>(Please print name exactly as it appears on Social Security card)</small>	
9-LOC Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	10-LOC. Date of Birth: (MM/DD/YYYY)	Deceased? <input type="checkbox"/> Yes <input type="checkbox"/> No	Date of Death: (MM/DD/YYYY):
15-LOC. Alleged Cause of Injury, Illness or Incident (Use "V" codes only - no "W" codes): <small>(Use "NOIN" code if claimant did not have treatment or submit medical expense to Medicare; if NOIN is coded here it must be used in Field 19-LOC)</small>			
19-LOC. ICD-9 Diagnosis: <small>(Use "NOIN" code if claimant did not have treatment or submit medical expense to Medicare; if NOIN is coded here it must be used in Field 15-LOC)</small>			

Signature of Attorney representing Plaintiff/Claimant(s)	Date	Printed Name
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The signature of the attorney hereto constitutes a certificate by him/her that he/she has read the information supplied in this form and that all information stated herein is well grounded in fact to the best of his/her knowledge, information and belief formed after reasonably inquiry.

*Numbers reflect claim input file field numbers, as set forth in Version 3.2 of the Official NGHP User Guide by CMS.

Medicare Confidential Reporting Information*

Pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (Rev 10-11)

Case Name:	Case Number:
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Defendant Name:

Section F CLAIMANT'S (found in Section D) ATTORNEY OR OTHER REPRESENTATIVE INFORMATION

119. Claimant Representative Type (please check one):
 A-Attorney P-Power of Attorney G-Guardian/Conservator O-Other

120. Claimant Representative Last Name:	121. Claimant Representative First Name:	122. Claimant Representative Firm Name:
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123. TIN/EIN, if Firm Entity; SSN. if Individual:	124. Representative Mailing Address:
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126. City:	127. State:	128. Zip Code +4:	129. Phone:	130. Ext. (if any):
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Section G ALLEGED INJURED PARTY'S ADDRESS

Representative Mailing Address:

City:	State:	Zip Code +4:	Phone:	Ext. (if any):
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Section D cont. ADDITIONAL CLAIMANT INFORMATION (Use only if Alleged Injured Party in Section A is deceased)

Claimant Relation to Alleged Injured Party (please check one):
 E-Estate (Individual) X-Estate (Entity) F-Family (Individual) F-Family (Entity) O-Other (Individual) Z-Other (Entity)

TIN/EIN (Social Security, if individuals):	Claimant Last Name:
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Claimant First Name:	Claimant Middle Initial:
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Claimant Entity/Organization Name:

Mailing Address:

City:	State:	Zip Code +4:	Phone:	Ext. (if any):
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Claimant Representative Type (please check one):
 A-Attorney P-Power of Attorney G-Guardian/Conservator O-Other

Claimant Representative Last Name:	Claimant Representative First Name:	Claimant Representative Firm Name:
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TIN/EIN, if Firm Entity; SSN. if Individual:	Representative Mailing Address:
--	---------------------------------

City:	State:	Zip Code +4:	Phone:	Ext. (if any):
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Section B cont. Additional ICD-9 fields, if necessary

31. ICD-9 Diagnosis Code 7:	33. ICD-9 Diagnosis Code 8:	35. ICD-9 Diagnosis Code 9:	37. ICD-9 Diagnosis Code 10:	39. ICD-9 Diagnosis Code 11:
41. ICD-9 Diagnosis Code 12:	43. ICD-9 Diagnosis Code 13:	45. ICD-9 Diagnosis Code 14:	47. ICD-9 Diagnosis Code 15:	49. ICD-9 Diagnosis Code 16:
51. ICD-9 Diagnosis Code 17:	53. ICD-9 Diagnosis Code 18:	55. ICD-9 Diagnosis Code 19:		

If additional Section D Claimants exist, use page 3 and duplicate page, if necessary.

Medicare Confidential Reporting Information*

Pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (Rev 10-11)

Case Name:		Defendant Name:			
Section D cont. ADDITIONAL CLAIMANT INFORMATION <i>(Use only if Alleged Injured Party in Section A is deceased)</i>					
Claimant Relation to Alleged Injured Party (please check one): <input type="checkbox"/> E Estate (Individual) <input type="checkbox"/> X Estate (Entity) <input type="checkbox"/> F Family (Individual) <input type="checkbox"/> F Family (Entity) <input type="checkbox"/> O Other (Individual) <input type="checkbox"/> Z Other (Entity)					
TIN/EIN (Social Security, if individuals):			Claimant Last Name:		
Claimant First Name:			Claimant Middle Initial:		
Claimant Entity/Organization Name:					
Mailing Address:					
City:		State:	Zip Code +4:	Phone:	Ext. (if any):
Claimant Representative Type (please check one): <input type="checkbox"/> A Attorney <input type="checkbox"/> P Power of Attorney <input type="checkbox"/> G Guardian/Conservator <input type="checkbox"/> O Other					
Claimant Representative Last Name:		Claimant Representative First Name:		Claimant Representative Firm Name:	
TIN/EIN, if Firm Entity; SSN. if Individual:		Representative Mailing Address:			
City:		State:	Zip Code +4:	Phone:	Ext. (if any):
Section D cont. ADDITIONAL CLAIMANT INFORMATION <i>(Use only if Alleged Injured Party in Section A is deceased)</i>					
Claimant Relation to Alleged Injured Party (please check one): <input type="checkbox"/> E Estate (Individual) <input type="checkbox"/> X Estate (Entity) <input type="checkbox"/> F Family (Individual) <input type="checkbox"/> F Family (Entity) <input type="checkbox"/> O Other (Individual) <input type="checkbox"/> Z Other (Entity)					
TIN/EIN (Social Security, if individuals):			Claimant Last Name:		
Claimant First Name:			Claimant Middle Initial:		
Claimant Entity/Organization Name:					
Mailing Address:					
City:		State:	Zip Code +4:	Phone:	Ext. (if any):
Claimant Representative Type (please check one): <input type="checkbox"/> A Attorney <input type="checkbox"/> P Power of Attorney <input type="checkbox"/> G Guardian/Conservator <input type="checkbox"/> O Other					
Claimant Representative Last Name:		Claimant Representative First Name:		Claimant Representative Firm Name:	
TIN/EIN, if Firm Entity; SSN. if Individual:		Representative Mailing Address:			
City:		State:	Zip Code +4:	Phone:	Ext. (if any):
Section D cont. ADDITIONAL CLAIMANT INFORMATION <i>(Use only if Alleged Injured Party in Section A is deceased)</i>					
Claimant Relation to Alleged Injured Party (please check one): <input type="checkbox"/> E Estate (Individual) <input type="checkbox"/> X Estate (Entity) <input type="checkbox"/> F Family (Individual) <input type="checkbox"/> F Family (Entity) <input type="checkbox"/> O Other (Individual) <input type="checkbox"/> Z Other (Entity)					
TIN/EIN (Social Security, if individuals):			Claimant Last Name:		
Claimant First Name:			Claimant Middle Initial:		
Claimant Entity/Organization Name:					
Mailing Address:					
City:		State:	Zip Code +4:	Phone:	Ext. (if any):
Claimant Representative Type (please check one): <input type="checkbox"/> A Attorney <input type="checkbox"/> P Power of Attorney <input type="checkbox"/> G Guardian/Conservator <input type="checkbox"/> O Other					
Claimant Representative Last Name:		Claimant Representative First Name:		Claimant Representative Firm Name:	
TIN/EIN, if Firm Entity; SSN. if Individual:		Representative Mailing Address:			
City:		State:	Zip Code +4:	Phone:	Ext. (if any):

FORM B

Medicare Confidential Reporting Information*

Pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (Rev 10-11)

City:	State:	Zip Code +4:	Phone:	Ext. (if any):
Field#	Field Name	Definition:		
4	MEDICARE CLAIM NUMBER (HICN)	Provide Alleged Injured Party's Medicare Health Insurance Claim Number (if one has been issued). This number can be found on Medicare Card if available.		
5	SOCIAL SECURITY NUMBER	Provide Alleged Injured Party's Social Security Number if Medicare Claim Number (HICN) is not available.		
6	LAST NAME	Provide last name of Alleged Injured Party EXACTLY AS IT APPEARS ON SOCIAL SECURITY CARD or Medicare Card if available.		
7	FIRST NAME	Provide first name of Alleged Injured Party EXACTLY AS IT APPEARS ON SOCIAL SECURITY CARD or Medicare Card if available.		
8	MIDDLE INITIAL	Provide middle initial of Alleged Injured Party EXACTLY AS IT APPEARS ON SOCIAL SECURITY CARD or Medicare Card if available.		
9	GENDER	Indicate Alleged Injured Party's gender by selecting MALE or FEMALE .		
10	DATE OF BIRTH	Provide Alleged Injured Party's Date of Birth.		
	DECEASED?	Indicate if the Alleged Injured Party is deceased by selecting YES or NO .		
	DATE OF DEATH	Provide the date the Alleged Injured Party deceased.		
12	CMS DATE OF INCIDENT	Provide Date of Incident (DOI). DOI as defined by CMS: For an automobile wreck or other accident, the date of incident is the date of the accident. For claims involving exposure (including, for example, occupational disease and any associated cumulative injury) the DOI is the date of FIRST exposure. For claims involving ingestion (for example, a recalled drug), it is the date of FIRST ingestion. For claims involving implants it is the date of the implant (or date of the first implant if there are multiple implants).		
13	INDUSTRY DATE OF INCIDENT	Provide Industry Date of Incident (DOI) routinely used by the insurance/workers' compensation industry: For an automobile wreck or other accident, the date of incident is the date of the accident. For claims involving exposure, or implantation, the date of incident is the date of LAST exposure, ingestion, or implantation.		
15	ALLEGED CAUSE OF INJURY, ILLNESS OR INCIDENT	Claimant must provide either: 1) both a valid Alleged Cause of Injury, Incident or Illness Code (Field 15) and at least one valid ICD-9 Diagnosis Code (Field 19) OR 2) the Description of Illness/Injury (Field 57). Claims submitted on or after 1/1/11, Claimant must provide both a valid Alleged Cause of Injury, Incident, or Illness Code (Field 15) and at least one valid ICD-9 Diagnosis Code. (See notes above for Spouse injury codes)		
17	STATE OF VENUE	Provide the US postal abbreviation corresponding to the US State whose state law controls resolution of the claim. Use "US" where the claim is a Federal Tor Claims Act liability insurance matter or a Federal workers' compensation claim.		
19-55	ICD-9 DIAGNOSIS CODE 1 - 19	(International Classification of Diseases, Ninth Revision, Clinical Modification) - Must be on the current list of valid codes accepted by CMS found at www.cms.hhs.gov/ICD9ProviderDiagnosticCodes/06_codes.asp At least one valid diagnostic code must NOT be on the list of insufficient codes (found in Appendix H to the NGHP User Guide, V. 2.0, and NOT an E or a V Code). (See notes above for Spouse injury codes)		
57	RESERVED FOR FUTURE USE	Formerly used for the obsolete - Description of Illness / Injury		
84	REPRESENTATIVE TYPE	Indicate the type of representative that the Alleged Injured Party has. Select from the options provided: A = Attorney G = Guardian/Conservator P = Power of Attorney O = Other. If Alleged Injured Party has more than one representative, provide attorney information, if available.		
85	REPRESENTATIVE LAST NAME	Provide Last Name of Representative.		
86	REPRESENTATIVE FIRST NAME	Provide First Name of Representative.		
87	REPRESENTATIVE FIRM NAME	Provide the Name of the Representative's Firm.		
88	TIN/EIN, IF FIRM/ENTITY; SOCIAL SECURITY NUMBER IF INDIVIDUAL	Provide Alleged Injury Party's Representative's Federal Tax Identification Number (TIN). If representative is part of a firm, supply the firm's Employer Identification Number (EIN), otherwise supply the representative's Social Security Number (SSN).		
89	MAILING ADDRESS	Provide mailing address for the alleged injured party's representative named above.		
91	CITY	Provide mailing address city for the alleged injured party's representative named above.		
92	STATE	Provide mailing address state for the alleged injured party's representative named above.		
93	ZIP CODE +4	Provide mailing address zip code for the alleged injured party's representative named above. Include Zip+4 code if known; if not known enter 0000.		
95	PHONE	Provide telephone number of alleged injured party's representative.		
96	PHONE EXTENSION, IF ANY	Provide telephone extension of alleged injured party's representative, if extension is available.		
100	DATE OF SETTLEMENT	Date the Release is signed unless court approval is required - then it is the later of the date the Release is signed or the date of court approval. If there is no written agreement, then it is the date of payment.		
101	AMOUNT OF SETTLEMENT	Provide total amount of Settlement.		
104	CLAIMANT'S RELATIONSHIP TO ALLEGED INJURED PARTY	Indicate relationship of the claimant to the alleged injured party/Medicare beneficiary by selecting from the options provided: E = Estate, individual Name Provided F = Family Member, Individual Name Provided O = Other, Individual Name Provided X = Estate, Entity Name Provided (e.g. "The Estate of John Doe") Y = Family, Entity Name Provided (e.g. "The Family of John Doe") Z = Other, Entity Name Provided (e.g. "The Trust of John Doe") Blank = Not applicable (rest of the section will be ignored)		
105	TIN/EIN, IF ENTITY; SOCIAL SECURITY NUMBER, IF INDIVIDUAL	Provide Claimant's Social Security Number (SSN) if individual or Federal Tax Identification Number (TIN)/Employer Identification Number (EIN) if claimant is an entity.		
106	CLAIMANT LAST NAME	If claimant is an individual (claimant relationship is 'E', 'F', or 'O'), provide last name.		
107	CLAIMANT FIRST NAME	If claimant is an individual (claimant relationship is 'E', 'F', or 'O'), provide first name.		

FORM B

Medicare Confidential Reporting Information*

Pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (Rev 10-11)

108	CLAIMANT MIDDLE INITIAL	If claimant is an individual (claimant relationship is 'E', 'F', or 'O'), provide middle initial.
109	CLAIMANT ENTITY/ORGANIZATION NAME	If claimant is an entity or organization (claimant relationship is 'X', 'Y', or 'Z'), provide entity name, e.g. "The Estate of John Doe", "The Family of John Doe", "The Trust of John Doe", etc.
110	MAILING ADDRESS	Provide mailing address for claimant.
112	CITY	Provide mailing address city of the claimant.
113	STATE	Provide mailing address state of the claimant.
114	ZIP CODE +4	Provide mailing address zip code for the claimant. Include Zip +4 code if available.
116	PHONE	Provide telephone number of the claimant
117	PHONE EXTENSION, IF ANY	Provide telephone extension of claimant, if extension is available.
119	CLAIMANT REPRESENTATIVE TYPE	Indicate the type of representative the claimant has by selecting from the option types provided: A = Attorney G = Guardian/Conservator P = Power of Attorney O = Other Blank = Not applicable (rest of the section will be ignored)
120	CLAIMANT REPRESENTATIVE LAST NAME	Provide the last name of the Claimant's Representative.
121	CLAIMANT REPRESENTATIVE FIRST NAME	Provide the first name of the Claimant's Representative.
122	CLAIMANT REPRESENTATIVE FIRM NAME	Provide the Name of the Claimant's Representative's Firm or Entity.
123	TIN/EIN, IF FIRM/ENTITY; SOCIAL SECURITY NUMBER, IF INDIVIDUAL	Claimant's Representative's Federal Tax Identification Number (TIN). If representative is part of a firm, supply the firm's Employer Identification Number (EIN), otherwise supply the representative's Social Security Number (SSN).
124	CLAIMANT REPRESENTATIVE MAILING ADDRESS	Provide mailing address for the claimant's representative.
126	CLAIMANT REPRESENTATIVE CITY	Provide mailing address city for the claimant's representative.
127	CLAIMANT REPRESENTATIVE STATE	Provide mailing address state for the claimant's representative.
128	CLAIMANT REPRESENTATIVE ZIP CODE +4	Provide mailing address zip code for the claimant's representative.
130	CLAIMANT REPRESENTATIVE PHONE	Provide telephone extension of claimant's representative, if extension is available.
131	CLAIMANT REPRESENTATIVE PHONE EXTENSION, IF ANY	Provide telephone extension of claimant's representative, if extension is available.

FORM C-1
[INSERT TITLE OF THE RELEASE]
MEDICARE ADDENDUM
EXPOSURE ON OR AFTER 12/5/80 SPECIFICALLY OR GENERALLY CLAIMED/ALLEGED,
EVIDENCED OR SPECIFICALLY RELEASED

In further consideration for the Release and Agreement (hereinafter "Release") to which this Medicare Addendum is attached and incorporated therein, [Defendant name] and all persons, companies and firms now or previously affiliated with or under the common ownership of said corporation, or for whose conduct [Defendant name] is, was, or hereafter could be liable, and each of their respective officers, directors, agents, servants, employees, predecessors, successors, assigns, subsidiaries, affiliates, divisions and insurers (hereinafter "RELEASEES"), and their attorneys rely on the following representations and warranties made by [Plaintiff name(s)] (hereinafter "RELEASOR") and RELEASOR's Counsel.

I. Representations and Warranties

RELEASOR, RELEASOR's Counsel and RELEASEES agree that all representations and warranties made herein shall survive settlement.

A. Medicare Secondary Payer.

RELEASOR acknowledges and agrees that the parties hereto have taken reasonable steps from the beginning of this action to comply with the requirements of 42 U.S.C. § 1395y(b) and the rules and regulations promulgated thereunder (hereinafter collectively "MSP").

B. [Insert the Name of Plaintiff or Injured Person/Loss of Consortium Claimant ("LOC") if applicable] is/are or was/were Medicare eligible; and

1. RELEASOR is aware of Medicare's interest in this settlement to the extent Medicare has made any conditional payments for medical services or items received by [Insert the Name of Plaintiff or Injured Person/LOC (if applicable)], pursuant to MSP, and related to the accident, injury, or illness giving rise to this settlement, and/or arising from or related to the matters forming the basis of the claims by RELEASOR;
2. RELEASOR has provided, through RELEASOR's counsel, the requisite information to RELEASEES and their counsel necessary to comply with the mandatory reporting obligations of MSP.

C. RELEASOR's Responsibility for Reimbursement of Medicare's Conditional Payments:

1. RELEASOR and/or RELEASOR's counsel has notified Medicare and/or its contractor (hereinafter inclusively "Medicare") of the accident, injury, or illness giving rise to this settlement.
2. RELEASOR, within a time frame specified by Medicare, shall compromise, satisfy or obtain a waiver for any conditional payments, if any, related to the accident, injury, or illness giving rise to this settlement, and/or arising from or related to the matters forming the basis of the claims asserted by RELEASOR.
3. RELEASOR acknowledges and agrees, in exchange for RELEASEE's settlement funds that it is RELEASOR'S responsibility, not the responsibility of RELEASEES or their counsel to reimburse Medicare for any conditional payments made by Medicare on behalf of [Insert the Name of Plaintiff or Injured Person] if applicable.
4. RELEASOR's Counsel shall hold the Settlement Funds, less procurement costs, in an escrow account or client trust account without distributing to RELEASOR until the claims by Medicare, if any, arising from or related to the matters forming the basis of RELEASOR's claims has been satisfied, waived, or that its case is closed, as demonstrated by written documentation from Medicare or, as agreed upon by the parties, its authorized entity.
5. Prior to distributing any of the Settlement Funds to RELEASOR or any other person or entity, RELEASOR's Counsel will provide to RELEASEES' Counsel written documentation from Medicare or, as agreed upon by the parties, its authorized entity proving waiver, case closure, or satisfaction and release of any claim by Medicare arising from or related to prior conditional payments, if any, made in connection with the matters forming the basis of RELEASOR's claims.

II. Indemnification

In addition to and without limiting any other language in the Release and Agreement, RELEASOR agrees to indemnify and hold harmless RELEASEES from any and all claims by Medicare that have been or may in the future be related to, arise out of or are in connection with MSP for any breach or failure of the RELEASOR or RELEASOR'S Counsel to comply with the representations and warranties in this Release and Medicare Addendum.

Notwithstanding any other provision of the Release to the contrary, RELEASOR shall not be obligated to indemnify RELEASEES in relation to any fines or penalties

which result from the actions of RELEASEES or their attorneys for their failure to comply with MMSEA Section 111.

III. Reliance on Representations and Warranties

In agreeing to the Release, RELEASEES and their counsel are relying on the representations and warranties of RELEASOR and RELEASOR's Counsel regarding [Insert the Name of Plaintiff or Injured Person/LOC (if applicable)]'s Medicare status and the actions RELEASOR and RELEASOR's Counsel have represented they have taken and/or will take to satisfy any and all claims by Medicare and interests pertaining to the matters forming the basis of RELEASOR's claims.

In the event that the above representations are not correct or the above actions are not performed, nothing contained in this release shall be construed to limit the rights of RELEASEES to pursue all available remedies at law or in equity for breach of the Release.

RELEASOR has reviewed this release with advice of counsel and executes it as his/her own free act and deed and signed under the pains and penalties of perjury.

Executed in _____, _____ this _____ day of 20____.

RELEASOR

LOC RELEASOR

WITNESS

FORM C-2
[INSERT TITLE OF RELEASE]
MEDICARE ADDENDUM
ONLY PRE-12/5/80 EXPOSURE SPECIFICALLY OR GENERALLY CLAIMED/ALLEGED,
ESTABLISHED OR SPECIFICALLY RELEASED

In further consideration for the Settlement Agreement and Release (Release) to which this Medicare Addendum is attached and incorporated therein, [DEFENDANT], its attorneys and insurer(s) (hereafter inclusively "RELEASEES") rely on the following representations and warranties made by [Plaintiff] ("RELEASOR") and RELEASOR's Counsel.

I. Representations and Warranties

RELEASOR, RELEASOR's Counsel and RELEASEES agree that all representations and warranties made herein shall survive settlement.

A. Medicare Secondary Payer.

RELEASOR and RELEASOR'S counsel acknowledge and agree that the parties hereto have taken reasonable steps from the beginning of this action to comply with the requirements of 42 U.S.C. § 1395y(b) and related rules and regulations (hereinafter collectively "MSP").

B. MSP applicability.

1. RELEASOR represents and warrants that [Injured person] is or was Medicare eligible;
2. RELEASOR represents and warrants, after consultation with counsel that [injured person] was exposed to asbestos-containing products used, manufactured, sold or supplied by Defendant/RELEASEES or was otherwise exposed to asbestos on equipment or at sites or properties for which RELEASEES may be legally responsible from X date to Y date. RELEASOR makes no claim for any exposure outside of those dates as to RELEASEES. RELEASOR represents and warrants the foregoing to be true and understands that RELEASEES have relied on these statements to conclude no reporting or reimbursement obligation exists within the meaning of MSP.

- C. RELEASOR'S potential responsibility for reimbursement of claims by Medicare.
1. RELEASOR and RELEASOR'S Counsel represent and warrant that if this settlement becomes subject to a claim by Medicare and/or its contractor (hereafter inclusively "Medicare"), despite paragraph B(2) above, RELEASOR and RELEASOR'S Counsel shall provide notice to RELEASEES within 14 days of knowledge of the claim by Medicare. RELEASOR and RELEASOR'S Counsel acknowledge and agree that it is their responsibility, not the responsibility of RELEASEES to reimburse Medicare for any claims made by Medicare related to this settlement as further set forth, but not limited to, the following paragraphs.
 2. RELEASOR's Counsel represents and warrants that if this settlement becomes subject to a claim by Medicare in advance of payment of the Settlement Funds to RELEASOR, RELEASOR'S Counsel shall hold the Settlement Funds, less procurement costs, in an escrow account or client trust account without distributing the held funds to RELEASOR or any other person or entity until the claim by Medicare, if any, arising from or related to the matters forming the basis of this settlement have been satisfied or waived.
 3. RELEASOR and RELEASOR's Counsel represent and warrant that if this settlement becomes subject to a claim by Medicare after payment of the settlement funds to RELEASOR, RELEASOR and RELEASOR'S Counsel shall timely negotiate the claim by Medicare. RELEASOR will satisfy the claim by Medicare whether through payment or obtaining a waiver.
 4. RELEASOR and RELEASOR'S Counsel represent and warrant that proof from Medicare of said resolution will be provided to RELEASEES' Counsel by RELEASOR or RELEASOR'S Counsel timely upon receipt.

II. Indemnification

In addition to and without limiting any other language in the Release, RELEASOR agrees to indemnify and hold harmless RELEASEES from any and all claims by Medicare that have been or may in the future be related to, arise out of or are in connection with MSP for any breach or failure of the RELEASOR or RELEASOR'S Counsel to comply with the representations and warranties in this Release and Medicare Addendum.

Notwithstanding any other provision of the Release to the contrary, RELEASOR shall not be obligated to indemnify RELEASEES in relation to any fines or penalties which result from the actions of RELEASEES or their attorneys for their failure to comply with MMSEA Section 111, if applicable to this matter.

III. Reliance on Representations and Warranties

In agreeing to the Release and funding the settlement, RELEASEES are relying on the representations and warranties of RELEASOR and RELEASOR'S Counsel regarding [injured person]'s Medicare status and the actions RELEASOR and RELEASOR'S Counsel have represented they have taken and/or will take to satisfy any and all claims by Medicare, should they arise, pertaining to the matters forming the basis of RELEASOR's claims.

In the event that the above representations are not correct or the above actions are not performed, nothing contained in this release shall be construed to limit the rights of RELEASEES to pursue all available remedies at law or in equity for breach of the Release.

RELEASOR has reviewed this release with advice of counsel and executes it as his/her own free act and deed and signed under the pains and penalties of perjury.

Executed in _____ County, _____ this _____ day of 20__.

RELEASOR

WITNESS

FORM D

[NAME(S)], et al	*	IN THE
Plaintiffs	*	[COURT]
v.	*	FOR
[NAME(S)], et al	*	[LOCATION]
Defendants	*	CASE NO.
* * * * *		

AFFIDAVIT OF PLAINTIFF(S)

1. I(We), [PLAINTIFF(S)], am over the age of eighteen (18) and am competent to be a witness in this matter. I have personal knowledge of the facts set forth herein.
2. I(We) understand that in reaching a settlement, the parties have considered Medicare’s interest in recovering conditional payments made for medical treatment rendered as a result of the claim that is the subject of my(our) above captioned lawsuit.
3. I(We) have provided my(our) Social Security Number. I understand that if I(We) am(are) a Medicare beneficiary(ies) and I(We) do not provide the requested information, including a Health Insurance Claim Number, I(We) may be violating obligations as a beneficiary to assist Medicare in coordinating benefits to pay my(our) claim(s) correctly and promptly.
4. I(We) hereby make the following representations and warranties:
 - (a) I(We) have not applied for Medicare benefits.
 - (b) Medicare has made no conditional payments for any medical expense or prescription expense related to the claimed injury.
 - (c) I(We) am(are) not, nor have I(we) ever been Medicare beneficiaries.
 - (d) I(We) am(are) not currently receiving Social Security Disability Benefits.
 - (e) I(We) have not applied for Social Security Disability Benefits.

- (f) I(We) have not been denied Social Security Disability Benefits.
 - (g) I(We) have not appealed from a denial of Social Security Disability Benefits.
 - (h) I(We) are not in End Stage Renal Failure.
 - (i) I (We) have not been diagnosed with amyotrophic lateral sclerosis (ALS), also known as Lou Gehrig's Disease.
 - (j) No liens, including but not limited to liens for medical treatment by hospitals, physicians, or medical providers of any kind, have been filed for the treatment of injuries sustained in the Accident.
5. I(We) assume all responsibility for all liens related to the treatment of the claimed injury, including those asserted by Medicare or any other entity pursuant to the Medicare, Medicaid and SCHIP Extension Act and/or the Medicare Secondary Payer Act.

I(We) solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of this affidavit are true.

Date

[PLAINTIFF]

Sworn and subscribed before me this _____ day of _____, 2011

Notary Public

My Commission expires: _____

EXHIBIT A

Asbestos Certificate of Service

David J. McMorris, Esq.
Thornton & Names LLP
100 Summer Street, 30th Floor
Boston, MA 02110

Edward P. Coady, Esq.
Coady & Associates
205 Portland Street
Boston, MA 02114

Michael C. Shepard, Esq.
The Shepard Law Firm, P.C.
10 High Street
Boston, MA 02110

Albert C. Flanders, Esq.
Pollack & Flanders, LLP
50 Congress Street
Boston, MA 02109

David A Jagolinzer, Esq.
Ferraro &. Associates, P.A.
4000 Ponce de Leon Boulevard Suite 700
Miami, FL 33146

Michael P. Joyce, Esq.
100 Franklin Street
Boston, MA 02110

John E. Deaton, Esq., Deaton Law Firm
450 North Broadway, East Providence, RI

EXHIBIT B

COMMONWEALTH OF MASSACHUSETTS

_____)
Plaintiffs)
)
V.) Civil Action # _____
)
Defendants)
_____)

ACKNOWLEDGMENT OF SERVICE

Defendant _____ hereby acknowledges receipt of a summons and copy of plaintiff's complaint in this action.

- Defendant
- a) adopts the Model Cross-Claim Defendants
 - b) does not adapt the Model Cross-Claim of Defendants.
 - c) adopts Model Cross-Claim of _____ *

Defendant demands a trial by jury on all issues brought by or against defendant in this Action.

Respectfully submitted,

Defendant, _____

By Its Attorney

Dated: _____

* Circle appropriate letter.

EXHIBIT C

COMMONWEALTH OF MASSACHUSETTS

EASTERN COUNTIES, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

IN RE MASSACHUSETTS STATE
COURT ASBESTOS LITIGATION

CONSOLIDATION OF
CASES (ALL CASES)

MODEL CROSS-CLAIM OF DEFENDANTS

1. The plaintiff employee, or the representative of his/her estate, seeks recovery for injury to the employee's health caused by alleged exposure to asbestos products during the employee's employment

2. In some instances the plaintiff spouse seeks recovery for loss of consortium as a result of the employee's injuries.

3. In some instances the plaintiff child(ren) of plaintiff employee and spouse seek(s) recovery for loss of parental society as a result of the employee's injuries.

4. Cross-claimant herein is a corporation organized in a state other than Massachusetts.

5. Plaintiffs have alleged that all other named defendants (hereinafter "co-defendants") at all relevant times processed, manufactured, packaged, distributed, supplied, and sold for use various asbestos-containing products.

6. The plaintiff(s) has/have alleged that cross-claimant and the co-defendants were negligent in that they wrongfully processed, manufactured, packaged, distributed, delivered, supplied and sold various asbestos-containing products and materials and failed to render proper, adequate and correct warnings, advice, instruction and information.

7. The plaintiff(s) has/have further alleged that cross-claimant and the co-defendants expressly and/or impliedly warranted that said asbestos materials and products were of merchantable quality, fit and safe for the purposes for which they were mined,

processed, manufactured, fashioned, packaged, inspected, tested, distributed, sold, intended and use, and that cross-claimant and the co-defendants breached and warranties in that said asbestos materials and products were not of merchantable quality, fit safe for the purposes for which they were mined, processed, manufactured, fashioned, packaged, inspected, tested, distributed, sold, intended, and used.

8. The plaintiff(s) has/have further-alleged that cross-claimant and the co-defendants distributed, supplied, sold and placed asbestos products into the stream of commerce in a defective, dangerous and unsafe condition.

9. The plaintiff(s) has/have further alleged that the said acts and failures to act constituted gross negligence and wanton, willful and malicious misconduct, a reckless indifference to the rights of the plaintiff and a reckless indifference to the rights of the plaintiff and a reckless disregard for the consequences cross-claimant and co-defendants knew or should have known would result.

10. The plaintiff(s) has/have further alleged that said asbestos-containing products were sold or used by the plaintiff employee's employer and that the plaintiff employee was ultimately exposed to such product to his detriment,

11. Cross-claimant denies that it is liable to the plaintiff(s), as is set forth in its model and individual answer. If, however, the plaintiff(s) are found to be entitled to recover judgment against cross-claimant, such cross-claimant would be entitled to recover by way of contribution against the co-defendants since they would be joint tortfeasors with regard to plaintiff's damages.

WHEREFORE, the cross-claimant seeks judgment against the said co-defendants for contribution for the sums cross-claimant may be required to pay the plaintiffs, together with costs.

CROSS-CLAIMANT DEMANDS A TRIAL BY JURY

EXHIBIT D

COMMONWEALTH OF MASSACHUSETTS

EASTERN COUNTIES, SS.

SUPERIOR COURT

IN RE:)
)
 MASSACHUSETTS)
 ASBESTOS)
 LITIGATION)
)

CONSOLIDATED
DOCKET

AFFIDAVIT OF NOTICE OF CLAIM

Pursuant to Section VI. A. of Pre-Trial Order No 9, the following Affidavit of Notice of

Claim is hereby made:

Plaintiffs' Names and Addresses and Social Security Numbers:

Statement Concerning the Occupation and Exposure History of the Plaintiff(s):

Statement Concerning the Nature of the Asbestos-Related Injury, Disease or Condition Allegedly Suffered by Plaintiff(s):

Names of all entities with respect to which the plaintiff is giving notice of claim: Name and address of each person served and the date of service:

 Plaintiffs Attorney
 Address
 Telephone Number

DATED:

EXHIBIT E

COMMONWEALTH OF MASSACHUSETTS

EASTERNERN COUNTIES, SS.

SUPERIOR COURT

Plaintiffs)
V.)
Defendants)

STATEMENT REQUESTING TRANSFER TO
THE INACTIVE ASBESTOS DOCKET

Pursuant to Section VI.B. of Pre-Trial Order No. 9, all plaintiffs herein request a transfer of this case to this Court's Inactive Asbestos Docket and submit the following information: Plaintiffs' names and addresses and social security numbers:

Date of filing original complaint:

Specific nature of the alleged asbestos-related pleural or parenchymal condition, disease, or injury:

This case presently names the following defendants:

This case has not been place on as trial list or assigned a trial date;

and All plaintiffs herein have consented to the filing of this

Statement.

Plaintiff's Attorney
Address
Telephone Number

DATED:

EXHIBIT F

COMMONWEALTH OF MASSACHUSETTS

EASTERN COUNTIES, ss.

SUPERIOR COURT
DEPARTMENT OF THE
TRIAL COURT

CIVIL ACTION
NO. _____

Plaintiff)
)
v.)
)
Defendants, et al)

PLAINTIFF'S DISCLOSURE FORM

Attorney for Plaintiff
[Address, etc.]

I. IDENTIFICATION OF PLAINTIFF/DEFENDANTS

Plaintiff information Name:

Social Security No and Health Care

Information Number (HCIN):

Address:

Date of Birth:

Sex:

Marital Status:

Spousal Information

Name:

Address:

Social Security Number: and Health Care
Information Number (HCIN):

Date of Birth:

Date of Marriage:

Dependents

Names:

Dares of Birth:

Relationship:

Death Case Information

Date of Death:

Residence at Death:

Cause of Death:

Autopsy:

II. ASBESTOS-RELATED CONDITIONS

Condition/Location/Description (including symptoms)

Physician and Hospital, if applicable (name, address)

Date of Onset of Symptoms:

Date of Diagnosis:

Condition/Location/Description
on (including symptoms)

Physician and Hospital, if applicable (name, address)

Date of Onset of Symptoms:

Date of Diagnosis:

Condition/Location/Description including symptoms)

Physician and Hospital, if applicable (name, address)

Date of Onset of Symptoms:

III. SMOKING HISTORY

Was the claimant ever a smoker?

Type of products smoked: Cigarettes Cigars Pipe

Please document smoking history over time:

TOBACCO PRODUCT	QUANTITY PER DAY	BRAND NAME (FILTERED/NON-FILTERED)	FROM (YEAR)	TO (YEAR)
Cigarettes	packs			
Cigarettes	packs			
Cigar				
Pipe				

IV. EMPLOYMENT AND DISABILITY INFORMATION

Is plaintiff currently employed?

_____ If yes, state whether full-time or part-time and provide employers name and describe employment.

Is plaintiff retired?

If yes, date and reason for retirement:

Is plaintiff looking for employment?

If yes, state:

Whether total or partial:

Nature and extent of disability

Cause(s) of disability:

Date(s) of disability:

V. PLAINTIFF'S PRODUCT IDENTIFICATION/ EXPOSURE SHEET

INSTRUCTIONS: This Section V. (Plaintiff's Product Identification/Exposure Sheet) is to be completed separately for each jobsite or other exposure site and for each separate employer or time period of exposure for the same site, as necessary. As indicated below, specific information is to be provided separately for each product exposure. Use additional sheets as necessary where numerous product exposures are alleged at a single site.

Name:	Civil Action No.:
Employer if (if applicable):	
Jobsite or Other Exposure Site (address):	Duties at Exposure Site:
New Construction or Repair (if applicable):	

Product Exposure 1 at above site:

Defendant:	Defendant Status (manufacturer, installer)
Product Type:	Brand Name:
Product Identification Evidence (Describe or attach documents, name and address of witnesses, etc.)	
Specific Location(s) of Exposure:	Dates of Exposure:
Exposure Evidence (Describe specific facts and circumstances establishing the nature, extent and duration of exposure to above product, e.g., whether plaintiff personally used the product and, if not, the evidence establishing the nexus between plaintiff and product exposure including reference to documents and expected co-worker testimony.)	

Product Exposure 2 at above site:

Defendant:	Defendant Status (manufacturer, installer)
Product Type:	Brand Name:
Product Identification Evidence (Describe or attach documents, name and address of witnesses, etc.)	
Specific Location(s) of Exposure:	Dates of Exposure:
Exposure Evidence (Describe specific facts and circumstances establishing the nature, extent and duration of exposure to above product, e.g., whether plaintiff personally used the product and, if not, the evidence establishing the nexus between plaintiff and product exposure including reference to documents and expected co-worker testimony.)	

Product Exposure 3 at above site:

Defendant:	Defendant Status (manufacturer, installer
Product Type:	Brand Name:
Product Identification Evidence (Describe or attach documents, name and address of witnesses, etc.)	
Specific Location(s) of Exposure:	Dates of Exposure:
Exposure Evidence (Describe specific facts and circumstances establishing the nature, extent and duration of exposure to above product, e.g., whether plaintiff personally used the product and, if not, the evidence establishing the nexus between plaintiff and product exposure including reference to documents and expected co-worker testimony.)	

VI. PRODUCTION OF DOCUMENTS

All medical records in plaintiff's or plaintiff's attorney's possession relating to plaintiff's asbestos-related condition(s).

Duly executed authorization to obtain plaintiff's medical records and other materials including x-rays and pathology.

A duly executed authorization Rata SSA 7050-F3 (Department of Health and Human Services, Social Security Administration) or, if available, a print-out from the Social Security Administration showing detailed earnings information for plaintiff.

This Plaintiff Disclosure Form is signed under the pains and penalties of perjury this day of _____, 2012 .

EXHIBIT G

MASSACHUSETTS ASBESTOS LITIGATION TRIAL PREPARATION TIMELINE

Action	Previous Location in PTOs	New Location in PTO #9	Deadline (no later than)
P. provides medical and other authorizations	Order #6 (§ II, C, 6, a)	(§ XIII, C, 7, a)	150 days before the scheduled trial date.
P. & D. supplement discovery	Order #6 (§ II, C, 6, b)	(§ XIII, C, 7, b)	150 days before the scheduled trial date.
P. & D. motions to add any party	Order #5 (§ IV, A, 2) <i>(see E. Green letter of 1/25/95)</i>	(§ XIII, A, 2) & (§ XIII, C, 2)	150 days before the scheduled trial date.
P. pathology and test results	Order #6 (§ II, C, 6, c)	(§ XIII, C, 7, c)	105 days before the scheduled trial date.
P. designates experts	Order #6 (§ II, C, 6, c)	(§ XIII, C, 7, c)	105 days before the scheduled trial date.
P. & D. product identification and exposure discovery closed; P. disclosure forms closed	Order #6 (§ II, C, 2-4)	(§ XIII, C, 3-5)	90 days before the scheduled trial date.
P. motions to dismiss defendants	Order #6 (§ II, C, 3)	(§ XIII, C, 4)	90 days before the scheduled trial date.
D. motions for summary judgment	Order #6 (§ II, C, 5)	(§ XIII, C, 6)	75 days before the scheduled trial date.
P. oppositions to motions for summary judgment	Order #6 (§ II, C, 5)	(§ XIII, C, 6)	65 days before the scheduled trial date.
D. returns pathology and test results	Order #6 (§ II, C, 6, c)	(§ XIII, C, 7, c)	60 days before the scheduled trial date.
D. designates experts	Order #6 (§ II, C, 6, d)	(§ XIII, C, 7, d)	60 days before the scheduled trial date.
P. & D. deadline for deposing 30(b)(6) witnesses	Order #6 (§ II, C, 6, f)	(§ XIII, C, 7, f)	60 days before the scheduled trial date.

EXHIBIT G

MASSACHUSETTS ASBESTOS LITIGATION TRIAL PREPARATION TIMELINE

Action	Previous Location in PTOs	New Location in PTO #9	Deadline (no later than)
P. designates lay witnesses	Order #6 (§ II, C, 6, g)	(§ XIII, C, 7, g)	60 days before the scheduled trial date.
D. designates lay witnesses	Order #6 (§ II, C, 6, h)	(§ XIII, C, 7, h)	40 days before the scheduled trial date.
D. deadline for deposing P.'s lay witnesses	Order #6 (§ II, C, 6, g)	(§ XIII, C, 7, g)	30 days before the scheduled trial date.
P. list of exhibits	Order #6 (§ II, C, 6, i)	(§ XIII, C, 7, i)	30 days before the scheduled trial date.
P. list of deposition testimony	Order #6 (§ II, C, 6, j)	(§ XIII, C, 7, j)	30 days before the scheduled trial date.
D. deadline for deposing P.'s expert witnesses	Order #6 (§ II, C, 6, c)	(§ XIII, C, 7, c)	20 days before the scheduled trial date.
D. list of exhibits	Order #6 (§ II, C, 6, k)	(§ XIII, C, 7, k)	20 days before the scheduled trial date.
D. list of deposition testimony	Order #6 (§ II, C, 6, l)	(§ XIII, C, 7, l)	20 days before the scheduled trial date.
P. deadline for deposing D.'s lay witnesses	Order #6 (§ II, C, 6, h)	(§ XIII, C, 7, h)	10 days before the scheduled trial date.
P. deadline for deposing D.'s expert witnesses	Order #6 (§ II, C, 6, d)	(§ XIII, C, 7, d)	10 days before the scheduled trial date.
P. & D. joint list of exhibits and deposition designations	Order #6 (§ II, C, 6, m)	(§ XIII, C, 7, m)	10 days before the scheduled trial date.
P. & D. motions in limine and jury questions	Order #6 (§ II, C, 6, n)	(§ XIII, C, 7, n)	5 days before the scheduled trial date.

APPENDIX I

COMMONWEALTH OF MASSACHUSETTS

EASTERN COUNTIES, SS.

IN RE: MASSACHUSETTS STATE COURT
ASBESTOS LITIGATION

SUPERIOR COURT

MASSACHUSETTS
ASBESTOS
CONSOLIDATED
DOCKET

PRETRIAL ORDER NO. 8

**ORDER AUTHORIZING ELECTRONIC
SERVICE OF COURT FILED DOCUMENTS**

*NOTE REFER TO PRETRIAL ORDER NO. 8
ENTERED 23RD DAY OF AUGUST, 2004*

COMMONWEALTH OF MASSACHUSETTS

EASTERN COUNTIES, SS.

SUPERIOR COURT

**IN RE: MASSACHUSETTS STATE COURT
ASBESTOS LITIGATION**

**MASSACHUSETTS
ASBESTOS
CONSOLIDATED
DOCKET**

PRETRIAL ORDER NO. 8

**ORDER AUTHORIZING ELECTRONIC
SERVICE OF COURT FILED DOCUMENTS**

I. INTRODUCTION

Except as noted below, this Order shall apply to all pending and future cases in the Massachusetts State Court Asbestos Personal Injury Litigation. To the extent that the provisions of this Order are inconsistent with any prior Orders of this Court, the provisions of this Order shall supersede inconsistent provisions of prior orders.

This Order shall apply to all documents (including any exhibits or attachments to said documents) that parties to the Massachusetts Asbestos Litigation are required by Massachusetts Rules of Civil Procedure or any applicable Pretrial Order to serve on counsel of record, except that it shall not apply to service of summonses and complaints, which shall continue to be served by traditional means pursuant to Mass. R.Civ. P. 4. Use of the Verilaw system is mandatory for all parties in the Massachusetts Asbestos Litigation. In addition, nothing in this Order shall have any effect on the process by which documents are filed with the Court. The parties must continue to file all documents in paper form with the Court according to the applicable Rules and Pretrial Orders. This Order is not intended to affect the substantive rights of any party with respect to any document.

II. PROCESS FOR SERVICE OF DOCUMENTS

1. Verilaw Technologies, Inc. ("Verilaw") shall make available to the Court and to the parties in this litigation a system for providing electronic service, storage and delivery of documents ("the system").

2. A party seeking to effectuate service of a document covered by this Order, shall send the document to Verilaw by one of following three means of delivery: (1) electronic transfer via the Internet to Verilaw (the document being either a word-processing file or a scanned image of the document); (2) fax transmission; or (3) via overnight mail or U.S. mail addressed to Verilaw. The cost per document (including exhibits) for service via Verilaw shall be \$12.00 if electronic transfer method is used, except that each document posted to the Special Master Review Queue or Court Review Queue (the procedure for which is set forth in Section V below) shall cost \$2.00. Verilaw will charge an additional fee of \$.30 per page if the document is faxed or mailed to Verilaw for upload.

3. Regardless of transmission method, all document service must be initiated on the website by a registered user. Verilaw shall then convert all documents into Adobe Portable Document Format and make them available to parties on an Internet website maintained by Verilaw ("the Website").

4. Verilaw shall post all documents to the Website according to the following timetable:

- (a) Electronic documents shall be posted to the Website within one (1) hour of receipt of such document from a registered user;
- (b) Faxed documents shall be posted to the Website within six (6) business hours of receipt from a registered user; and

(c) Mailed paper copy documents shall be posted to the Website within twenty-four (24) hours of receipt of the overnight mail package.

5. Loss of internet connectivity on the part of a user shall not extend any service or filing deadlines. For any day or partial day that the Verilaw system is out of service, deadlines applicable to service of documents pursuant to this order shall be extended by one full day. In the event that a user loses internet connectivity for more than a day, that user may serve opposing counsel and liaison counsel by traditional means, and upload the document to Verilaw once internet connectivity is reestablished. Alternatively, the user may transmit the document to Verilaw through non-internet means.

6. Verilaw shall maintain a "Single Case" docket for service in an individual case, and an "All Cases Docket" (also known as "Consolidated Docket") for documents (e.g., Standard Affirmative Defenses) filed on the Massachusetts Asbestos Litigation Consolidated Docket. Case-specific documents shall be posted to the "Single Case" docket, not the "All Cases Docket."

7. Documents posted on Verilaw need not contain visual representations of the filing attorneys' signatures. Where it is not possible for the attorney to insert an original signature, attorneys shall (in place of a signature and where the signature would normally appear) place the following declaration: "Original Signature on File." Original documents filed with the Court must contain original signatures.

8. Under this order, counsel shall be exempt from the requirement of serving signature pages to Disclosure Forms and/or Answers to Interrogatories via the Verilaw system. However, once the Disclosure Form and/or Answers to Interrogatories are signed, counsel shall

notify all counsel of record that a copy of the signature page is available upon request, and shall provide a copy to any requesting attorney within five business days of the request.

9. Access to the Verilaw system shall be limited to registered users. Registered users shall consist of authorized Court personnel and counsel of record or their designees within their law firms. Verilaw shall provide each registered user with a username and password to access the system. Verilaw personnel shall perform all administrative functions for the system, except that registered users may use the “Case Management” function to adjust their mappings (i.e. add or delete registered users who receive electronic notification in any given case).

10. Any document electronically served pursuant to this Order shall be deemed served as of the date and time it is transmitted to Verilaw. Any document transmitted to the system shall certify in the Certificate of Service that a true and correct copy was electronically served to counsel of record via Verilaw.

11. Instructions for use of Verilaw shall be posted on the Verilaw Main Menu, which is displayed each time a user logs onto Verilaw.

12. Unless ordered by the Court, no documents that are filed under seal (“sealed documents”) shall be served via the system. Rather, service of sealed documents shall be made via traditional means and pursuant to Court Rules, including Trial Court Uniform Rule VIII.

III. INITIAL SERVICE OF PROCESS

13. The Court encourages each party to utilize Verilaw to effectuate service of process and complaints in lieu of the method specified in Mass.R.Civ.P. 4. Parties who agree to be served with process electronically shall file with the Court and serve upon all counsel a notice to that effect. If a party does not do so, that party shall continue to receive service of process by traditional means.

IV. ADDITION OF NEW CASES OR NEW PARTIES TO THE SYSTEM

14(a). For each new case filed on or after this Order, Plaintiffs' counsel shall within forty-eight hours of filing the complaint 1) contact Verilaw to initiate the electronic case docket or initiate it directly on the system, and 2) contact Verilaw to map to the case docket all defendants (who have a registered user) named in the case.

14(b). When a party serves a motion or pleading seeking to add new parties to a case, the serving party shall within forty-eight hours request that Verilaw map to the case docket all parties (who have a registered user) sought to be added. If a party sought to be added does not have a registered user, the moving party shall serve the motion by traditional means. Defense Liaison Counsel shall maintain and make available to all requesting parties a list identifying a designated registered user for each active defendant in the Massachusetts Asbestos Litigation. Defense counsel must designate one user within their law firm who will be responsible for receiving service on behalf of their defendant. Defense counsel will be responsible to map any additional users that they wish to receive service by utilizing the Case Management functions on the Verilaw system.

15. When a new party to the Massachusetts Asbestos Litigation is named or added in a case, the party seeking to name or add the new party shall serve a copy of this order upon the new party. New parties shall, within 20 days of receipt of service, contact Defendants' Liaison Counsel to request a Verilaw account be established on their behalf and to designate a registered user to receive service on behalf of the new defendant. All subsequent service to that party shall be made electronically in accordance with the provisions above.

V. MOTION PRACTICE PROCEDURES

16. Motion practice shall be modified as follows:

A. Moving parties may incorporate a motion and supporting memorandum into one document;

B. With respect to discovery motions, the Certificate of Compliance with Superior Court Rule 9C shall be included in the motion itself; and

C. With respect to summary judgment motions, the statement of material facts and statement of legal elements may be incorporated into the motion, and the responses thereto may be incorporated into the opposition, if any.

D. All oppositions, Affidavit of Compliance and List of Papers Filed pursuant to Rule 9A must be threaded with an original motion on Verilaw. To thread a document with a motion, the user must locate the last document threaded to the motion, and choose the “Respond” option beside the document. The user will then be prompted to upload the document, which will then be threaded to the original motion. The burden of properly threading an opposition shall be on the party opposing the motion. The burden of properly threading an Affidavit of Compliance or List of Papers Filed shall be on the moving party.

17. The Rule 9A process begins when the moving party serves its motion electronically via Verilaw to the appropriate docket. The remainder of the process will depend on whether or not the motion is opposed:

A. **Unopposed Motions**

If no opposition is received within the time permitted by Rule 9A or Massachusetts Asbestos Litigation Pre-Trial Order, the following procedures apply:

1. Unopposed motions do not receive Special Master review.
2. The moving party shall do the following:

- A. File the original motion and Affidavit of Compliance pursuant to Rule 9A with the Middlesex Superior Court.
 - B. Post the Affidavit of Compliance (which shall be threaded to the original motion) to the Court Review Queue. This will prompt the Court to issue a ruling.
3. When the Court rules on the motion, the Verilaw system will automatically thread the ruling with the original motion. Parties to the case will be advised of the ruling via e-file notification.

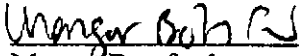
B. Opposed Motions

If a motion is opposed within the time period prescribed by Rule 9A or Massachusetts Asbestos Litigation Pre-trial Order, the following procedures apply:

1. Opposed motions require Special Master review and recommendations.
2. To obtain the Special Master's recommendation, the moving party shall do the following:
 - A. Send to the Special Master hard copies of the motion, the oppositions received, and the List of Papers Filed pursuant to Rule 9A.
 - B. Post the List of Papers Filed (which shall be threaded to the original motion) to the Special Master Review Queue. This will prompt the Special Master to issue a recommendation.
3. When the Special Master issues a recommendation, Verilaw will automatically thread the recommendation with the original motion. Parties to the case will be advised of the recommendation via e-file notification.

4. To secure Court review, the moving party shall do the following:
 - A. File the original motion, all oppositions, the Special Master's Recommendation and the List of Papers Filed pursuant to Rule 9A with the Middlesex Superior Court.
 - B. Send a courtesy copy of all these documents to the Judge's chambers at Suffolk Superior Court.
 - C. Post the List of Papers Filed (which shall be threaded to the original motion) to the Court Review Queue. This will prompt the Court to issue a ruling.
5. When the Court rules on the motion, Verilaw will automatically thread the ruling to the original motion. Parties to the case will be advised of the ruling via e-file notification.
18. All orders issued via Verilaw shall constitute the order of the Court.

SO ORDERED THIS 23 day of August, 2004.



Margot Botsford
Justice of the Superior Court