

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Case No. 03-310422-NP

IN RE: ALL ASBESTOS PERSONAL
INJURY CASES

Hon. Patricia P. Fresard

ORDER NO. 23
(Amending Case Management Order No. 22)

At a session of said Court held
In the Courthouse, Detroit, Michigan

On 11/28/2018

Present: Honorable Patricia P. Fresard
Circuit Court Judge

The Court having met with representatives of the plaintiffs and defendants on the Steering Committee, and recognizing the need to amend certain provisions of Case Management Order 22 concerning releases and dismissal orders in asbestos litigation pending before this Court, and in order to promote the efficient administration of justice to all parties, hereby orders the following amendments to Article II, paragraphs N and O of said Case Management Order:

Article II, Par. N (1) on page 26 of said order shall now read as follows:

N. Submission of Releases and Settlement Payments

1. Releases

Unless otherwise agreed between the parties, a settling defendant(s) shall serve Releases to plaintiffs within fourteen (14) days after a Settlement Agreement is reached. If a defendant fails to serve Releases consistent with this Order, interest may accrue from the date the settlement was reached if late payment of the settlement proceeds occurs. A defendant's release may contain a signature line for either a notary or a witness to attest to the plaintiff's signature. However, the release must not require both a notary and a witness.

Article II, Par. N (1) on page 26 of said order shall now read as follows:

O. Orders of Dismissal and Administrative Closing:

1. The Court will accept stipulated orders of dismissal submitted for entry until 182 days before the trial date in the Scheduling Order of the Court;

2. For agreed upon dismissals secured within 182 days of the scheduled trial date, or for which no stipulated order was submitted for entry before the 182-day cutoff, dismissal agreements will be memorialized by filing a “Notice of Intent to Dismiss.” The Notice is to be filed electronically by, or with written consent of, Plaintiff’s Counsel. Each Notice will identify the defendant(s) that Plaintiff has agreed to dismiss.

3. Stipulated Orders of Dismissal will not be accepted for entry by the Court during this 182-period before the scheduled trial date, except for special circumstances. “Special Circumstances” shall not generally be deemed to include settlement, or dismissal for lack of product identification. Where special circumstances warrant the submission of a “Stipulation and Order of Dismissal Without Prejudice under Special Circumstances,” the document so entitled may be submitted for entry. If the Stipulation applies to more than one case, they shall all be included in the caption of a single Stipulation.

4. Defendants for whom a Notice of Intent to Dismiss was filed, and any other defendant dismissed within 182 days of the trial date, or after the trial date, shall be included in the Court’s “Order of Dismissal and Administrative Closing” which serves as a dismissal with prejudice. Defendants dismissed by a “Stipulation and Order of Dismissal Without Prejudice Under Special Circumstances” should not be included in the Court’s Order of Dismissal and Administrative

Closing. If defendants who were parties to the “Special Circumstances” Stipulation entered under subparagraph (3) are later to become the subject of a dismissal *with* prejudice, a new stipulation and order of dismissal shall be submitted for entry by the Court. This new stipulation and order of dismissal shall specify that it is to be entered *with* prejudice and shall include in its caption all cases to which it applies.

5. In wrongful death cases, Plaintiff’s Counsel shall include in the language of all consent judgments or orders approving settlement: “IT IS FURTHER ORDERED that the following are dismissed with prejudice: [list of defendants/entities dismissed]”

/s/ Patricia Fresard 11/28/2018

Honorable Patricia P. Fresard
Circuit Judge
Wayne County Circuit Court