

MAY 27 2009

John A. Clarke, Executive Officer/Clerk  
By: M. Godderz Deputy  
MARTIN GODDERZ


**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF LOS ANGELES**

10 ) Case No. C 700000  
11 )  
12 In re Los Angeles Asbestos Litigation – )  
13 General Orders ) **THIRD AMENDED GENERAL ORDER NO. 30**  
14 )

14 IT IS HEREBY ORDERED that this order applies to actions in which a party has applied for a  
15 preferential trial date pursuant to the provisions of Code of Civil Procedure section 36.

16 IT IS FURTHER ORDERED that prior to the hearing on a motion for preference, the parties shall  
17 meet and confer, complete, sign and submit to the Court, a proposed order in the form attached hereto,  
18 [Exhibit "30-A"]. This proposed order will be issued by the Court only if the motion for preference is  
19 granted.

21 DATED: *May 27, 2009*

  
Hon. Elihu M. Berle  
Supervising Judge of the Civil Departments  
Los Angeles Superior Court

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

XXXXXXXXXX,

Plaintiffs,

vs.

XXXXXXXXXX et al.,

Defendants

) Case No. BC

) **TRIAL SETTING ORDER FOR**  
) **ASBESTOS LITIGATION**  
) **PREFERENCE CASES**

) Date:  
) Time:  
) Dept.:

) Action Filed:

Plaintiff's Motion for Preference in Trial Setting, pursuant to of Code of Civil Procedure, section 36, having been heard on \_\_\_\_\_, the Court makes the following orders:

1. This action is designated as a complex litigation within the meaning of Rules 3.400 and 3.750 of the California Rules of Court.
2. This action is set for trial on \_\_\_\_\_ at \_\_\_\_\_ a.m.
3. A Final Status Conference (hereafter "FSC") is set for \_\_\_\_\_ at \_\_\_\_\_ a.m.
4. The time periods prescribed by General Orders Nos. 22, 23, First Amended General

1 Order No. 27, and Third Amended General Order No. 29 do not apply to this case, provided plaintiff  
2 was in compliance with said orders as of the date of this order.

3 5. As of the date of this order, all defendants have been served, the time for answering the  
4 Complaint has passed, and plaintiff(s) represents that the case is at-issue, or that any named defendant  
5 who has not appeared has waived at-issue status.

6 6. All percipient/fact discovery shall be completed no later than \_\_\_\_\_. All  
7 responses to General Order Standard Interrogatories shall be due within thirty (30) days from the date  
8 of service of the interrogatories. All parties may propound case specific discovery at anytime after  
9 entry of this order, provided it is timely served with respect to the discovery cutoff. The hearings on  
10 all motions relating to percipient/fact discovery matters shall be held by \_\_\_\_\_.

11 7. All expert discovery shall be completed no later than \_\_\_\_\_. The hearings  
12 on all motions relating to those expert discovery matters shall be held not later than \_\_\_\_\_.

13 8. Each party shall file and exchange by the method described in paragraph 23, a list of  
14 the former testimony (as provided in First Amended General Order No. 36), which said party intends  
15 to use at trial, no later than \_\_\_\_\_, unless the parties stipulate otherwise. Any objections  
16 to said lists of former testimony shall be filed and exchanged no later than the first day of trial, unless  
17 the parties stipulate otherwise.

18 9. Each party shall file in and exchange, by the method described in paragraph 23, its  
19 motions in limine no later than \_\_\_\_\_. Such motions in limine shall be filed in  
20 accordance with Second Amended General Order 37.00 adopted on September 7, 2007. Defendants  
21 shall conduct their meet and confer, as required under Second Amended General Order 37.00, no later  
22 than thirty-five (35) days before the trial date. The subsequent meet-and-confer of all parties under  
23 General Order 37.00 shall take place no later than 21 days before the trial date.

24 10. Any written opposition to motions in limine shall be filed and exchanged no later than  
25 \_\_\_\_\_.

26 11. The hearings relating to the motions in limine will be conducted on \_\_\_\_\_.

27 12. If Plaintiffs have not already answered the General Order Standard Interrogatories  
28 served on them by Defendants, those responses shall be served no later than five (5) days after the

1 hearing on plaintiff's motion for preference, or no later than forty-eight (48) hours before the start of  
2 plaintiff's deposition, whichever is sooner.

3 13. In this case, relevant bodily tissue and/or fluid samples [do] [do not] exist. If in  
4 plaintiff's possession, these samples will be made available to the defendants and their experts not  
5 later than 2 weeks from of the granting of plaintiffs' motion for preference. The examinations by  
6 defendants of the samples shall be completed no later than \_\_\_\_\_. All provisions of  
7 General Order No. 28 shall apply to this matter. With respect to available pathology, plaintiff's  
8 available tissue may be used for destructive testing, including an asbestos fiber burden analysis. Each  
9 party receiving tissue samples for testing shall preserve at least one-half (1/2) of tissue received by the  
10 party. Any tissue remaining after the parties have completed testing shall be returned to the medical  
11 facility from which it was obtained.

12 14. Provided plaintiff can physically attend, defendants may conduct an independent  
13 medical examination of the plaintiff at such time and place as the Plaintiff and Defendants will agree,  
14 but in no event later than two weeks before trial. With the exception of paragraph 4 thereof, the  
15 provisions of First Amended General Order No. 27 are applicable to this matter. Solely with respect to  
16 this case, the provision of paragraph 4 of General Order No. 27 are amended to read: The defense  
17 medical examiner shall prepare and deliver a written report relating to said examination to defendants'  
18 counsel. A copy of said report shall be provided to plaintiff or plaintiff's counsel no less than twenty-  
19 four (24) hours before the defense medical examiner is deposed, or, if not deposed, testifies at trial.

20 15. Summary judgment motions may be heard up to and including \_\_\_\_\_.  
21 The parties agree to waive the current 75-day notice provision of Code of Civil Procedure Section  
22 437c. A motion for summary judgment shall be set on \_\_\_\_\_ days notice and shall be served by  
23 the methods described in paragraph 23. Opposition and reply papers shall be served per Code of Civil  
24 Procedure, section 437c.

25 16. As of the date of this order, all parties to this action are deemed to have made a  
26 demand, pursuant to Code of Civil Procedure, section 2034.210 et seq., for the exchange of  
27 information relating to expert trial witnesses and all their discoverable reports and writings. The  
28 exchange of such information and reports and writings, modified by the provisions of paragraphs 13

1 and 14 of this order with respect to defense medical examinations and examination of bodily tissues  
2 and/or fluid samples, shall be completed by \_\_\_\_\_. All parties who have participated in  
3 this designation of experts are deemed to have noticed the depositions of the opposing party's  
4 designated experts whom the opposing party intends to call to testify at the trial of this matter.  
5 Depositions of experts designated pursuant to Code of Civil Procedure Section 2034.210 et seq. shall  
6 be conducted promptly and in an orderly manner. Parties shall promptly offer their trial experts for  
7 deposition and shall: (1) allow the opposing side at least until 5 pm on the second business day after  
8 the offer to respond to such an offer; and (2) provide a minimum of five (5) days notice of the offered  
9 deposition. Absent an order of the Court, or stipulation of the parties, the number of depositions of  
10 experts actually taken should not exceed three (3) per day. All reports prepared by any testifying  
11 expert concerning this matter must be produced to the other side, a minimum of seventy-two (72)  
12 hours prior to the commencement of that expert's deposition.

13 17. The parties shall meet and confer and submit joint witness lists, exhibit lists, proposed  
14 jury instructions, and statement of the case to be read to the jury, no later than \_\_\_\_\_.

15 18. Counsel for plaintiff must file and serve, by the method, described in paragraph 23, the  
16 Case Report required by Third Amended General Order No. 29 on or before \_\_\_\_\_. All  
17 other provisions of Third Amended General Order No. 29 shall govern in this action, except that a  
18 defendant may file and serve a motion to dismiss no earlier than fourteen (14) calendar days after the  
19 filing and service of plaintiff's Case Report.

20 19. If plaintiff has not already made available to defendants, for inspection and copying, all  
21 discoverable non-privileged medical, employment, economic, rehabilitation, social security, and  
22 military records, which are in the possession or under the control of plaintiff or plaintiffs' counsel;  
23 pursuant to General Order No. 23, those documents shall be made available to defendants a minimum  
24 of forty-eight (48) hours prior to the commencement of plaintiff's deposition or forty-eight (48) hours  
25 after the entry of this order, whichever is later.

26 20. If plaintiff has not previously furnished signed authorizations to defendants to allow  
27 defendants to obtain, inspect and/or copy from others all such records referenced in paragraph 19  
28 above (of which plaintiff does not have in possession or control), those authorizations shall be made

1 available to defendants no later than seven (7) days after the hearing on plaintiff's motion for  
2 preference.

3 21. Any matters not covered by these orders remain governed by all applicable statutes, and  
4 the asbestos litigation General Orders of this Court.

5 22. Should any party fail to comply with any of the foregoing orders, any other party may  
6 move to compel compliance and request sanctions upon a shortened motion notice period of five (5)  
7 court days. Any opposition thereto must be filed and served via facsimile three (3) court days before  
8 the hearing. Any reply brief must be filed and served no later than noon on the court day before the  
9 hearing.

10 23. With respect to further pleadings and papers, including discovery, personal service in this  
11 matter may be accomplished by (a) electronic service; (b) facsimile service; or (c) for any deadline that  
12 falls on any day except a Friday, by an overnight courier which guarantees delivery by noon (12:00  
13 p.m.) on the next business day. Any exchange of documents, as provided for in this Order, means that  
14 the documents shall be served in such a manner which ensures that the documents are received by  
15 opposing counsel no later than the date specified for filing.

16 24. If a deadline to file, serve and/or exchange any document under this order falls on a  
17 weekend or holiday, the following court day is the operative deadline. No deposition shall take place on  
18 holidays or weekends absent stipulation of all parties.

19 25. Pursuant to section 2026.010 et seq. of the Code of Civil Procedure, any commissions  
20 necessary for the depositions of witnesses and/or production of documents or things in another state or  
21 nation are hereby issued, in advance, under the seal of this Court, directed to any person who is  
22 authorized to administer oaths by the laws of the United States, or by the laws of the jurisdiction in  
23 which the deposition is taken, and who is not otherwise disqualified under Code of Civil Procedure  
24 section 2025.320 to conduct the deposition of any such witnesses.

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