



**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA**

IN RE: ASBESTOS PERSONAL  
INJURY LITIGATION

Master File  
Civil Action No. 03-C-9600

**THIS ORDER APPLIES TO ALL CASES**

**2012 ASBESTOS CASE MANAGEMENT ORDER WITH ATTACHED EXHIBITS**

Pursuant to Rule 26.01 of the West Virginia Trial Court Rules, as well as Rule 42 of the West Virginia Rules of Civil Procedure, **THE COURT HEREBY ORDERS** that all “asbestos personal injury litigation” cases now pending or hereinafter filed in the State of West Virginia, and assigned to the docket of Judge Ronald E. Wilson, or his successor or successors, shall be governed by the terms of this 2010 Case Management Order (“CMO”).<sup>1</sup> The terms of this Order apply to all cases to be set for trial in 2011 and thereafter.

**1. SCOPE OF ORDER**

“Asbestos personal injury litigation,” as used in this CMO, covers those personal injury and wrongful death actions filed or to be filed in any Circuit Court in the State of West Virginia alleging that personal injury or death occurred as a result of exposure to asbestos or asbestos-containing products that are assigned by order of the Supreme Court of West Virginia to the docket of Judge Ronald E. Wilson or his successor or successors. This Order supersedes all prior Case Management Orders entered in Civil Action No.: 03-C-9600. The purpose of this CMO is to facilitate the administration of asbestos disease cases; to facilitate and expedite trials by reducing multiple filings and hearings; and to establish a discovery and trial plan for the orderly disposition of the cases. This CMO applies to all previously filed asbestos personal injury lawsuits and all filed hereafter.

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<sup>1</sup> Although this Order has been developed through a process of months of consultation, arguments and suggestions,

## 2. FILING OF CASES AND LINKING

A. An asbestos personal injury litigation may only be initiated by the filing of a complaint in the appropriate West Virginia Circuit Court. The Circuit Court of the county in which it is filed is to forward a copy of the file to Kanawha County for “Lexis/Nexis File & Serve” online filing (“L/N”). All “Active Cases” are subject to filing on L/N and must comply with L/N filing requirements. An “Active Case” is a case that has not completely settled and is included in a Trial Group. Plaintiffs may petition the court to have cases filed prior to January 1, 2005 classified as an “Active Case. In addition to the Master Civil Action No.: 03-C-9600, each individual Plaintiff designated for a Trial Group shall also have a Civil Action Number assigned by the Circuit Clerk in the county where the case is filed. All pleadings, exhibits and documents are to be filed on L/N under the civil action number and not the master civil action number. After a case is assigned to a trial group all documents that apply to part or all of a trial group are to be filed through L/N utilizing the multi-case filing for that trial group. After the initial complaint is filed, all subsequently filed pleadings thereafter shall contain the information required by L/N:

1. The name of the court where the pleading is being filed e.g. In the Circuit Court of Kanawha County;
2. The name of the mass litigation case type and number e.g. In re: Personal Injury Asbestos Litigation, Civil Action No. 03-C-9600;
3. A notation indicating whether the pleading applies to all cases or only a subset of cases e.g. THIS DOCUMENT APPLIES TO ALL CASES; or THIS DOCUMENT

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it should not be viewed as an “agreed” Order.

APPLIES TO;

4. A list of the short case title and case number of each case to which the document applies, including the initiating case number and the three-letter county identifier. e.g. Mary E. Rogers v. ABC Corp, et al, Civil Action No. 09-C-222 KAN. (The three-letter county identifier is found in the attached Appendix A.)
  5. If applicable, the caption is to state whether the filing is related to cases in a particular group. e.g. June 2009 Trial Group; and
  6. The title is to state the party and subject matter of the document, e.g. Defendant ABC Corp.'s Motion for Summary Judgment.
  7. If a case is assigned to a particular trial group, a notation shall be made of that trial group. e.g. October 2010 Trial Group. (See Appendix A-1)
- B. LINK or LINKING refers to creating associations between related documents on L/N. Use the "link to" column every time you file a responsive pleading. Attorneys and the Judge need to be able to go to one location to see all related documents. Thus, the rule is it's better to take a liberal approach to the "link to" column on your screen rather than a strict "response pleading" approach. Failure to appropriately link a responsive pleading may result in the Court refusing to consider the response.
- C. Every document filed in L/N is assigned a Lexis/Nexis Transaction Identification Number. Anytime a document is referred to in a motion, brief, disclosure or discovery response or when a document is adopted by reference, the Lexis/Nexis Transaction Identification Number shall be stated in brackets.

**3. COORDINATING COUNSEL**

After a Trial Group is designated in accordance with Appendix B and the appropriate Trial Group schedule, Defendants' Counsel shall caucus and designate coordinating Counsel for that Trial Group. Defense Counsel is to then advise opposing Counsel of the designation and file a notice of the designation in the Master file and in the Trial Group file within 30 days of the Plaintiffs' Trial Group Designation. Defendants may also designate separate Coordinating Counsel for sub-groups of Plaintiffs within a Trial Group. **Coordinating counsel shall not accept service on behalf of any party other than his/her own clients.** The responsibilities of Coordinating Counsel is limited to the scheduling of depositions, scheduling and coordination of medical examinations, and the dissemination of information about the Trial Group. This Order does not authorize or allow Coordinating Counsel to appear at any time for parties other than his or her own clients or to accept service of any document. Coordinating Counsel is not responsible, in any manner, for compliance by another lawyer or law firm with the CMO's terms and conditions.

#### **4. TRIAL GROUPS AND HARDSHIP CASES**

Cases processed under this Order will be combined into "Trial Groups" with the members of each group being selected pursuant to the terms and conditions defined in this Order. The Trial Groups of twenty (20) are to be chosen by counsel after due consideration is given to the position of all attorneys who choose to address this issue. The date/deadline for each group's designation, discovery deadlines and schedule, disclosures and trials shall be set forth in Appendix B. The cases will be set for trial on a date determined by the Court. The Court will resolve any dispute with regard to the composition of the trial groups.

Plaintiffs have the right to ask the court for permission to substitute two “hardship” cases to replace previously identified members of any trial group. A hardship case is a claim where the Court finds that there is a compelling reason to advance the case on the trial schedule. Hardship cases include cases where exigent financial circumstances make it difficult for the Plaintiff to afford critical medical care or to provide the necessities of life to his family. It also includes all cases in which the Plaintiff has been diagnosed with a mesothelioma.

To qualify as a Hardship Case:

1. The circumstances giving rise to the hardship must not have been known to Plaintiff’s counsel at the time of the original designation of the members of a particular trial group.
2. Plaintiff shall, no later than ninety (90) days after the original designation of the applicable Trial Group, file a written motion with the Court and defense counsel requesting the substitution. The motion is to identify the Plaintiff and state the reason the case should be approved as a hardship case.
3. Counsel must attach to the motion an affidavit stating how the hardship problem was discovered and attach a completed Trial Initial Information Sheet.
4. If the Appendix D deadline has passed, the Plaintiff shall file Appendix D within fifteen (15) days after filing the hardship motion.
5. Any objecting Defendant will have seven (7) days to file a written objection with argument. Following the seven (7) days for Defendant to object, Plaintiff’s counsel shall promptly submit a proposed Order allowing the substitution of the hardship cases.
6. The Court is to attempt to issue a ruling within seven (7) days of the receipt of

Plaintiff's proposed Order and objection.

## **5. PROCEDURE FOR "TRIAL GROUPS"**

Plaintiffs counsel shall designate the twenty (20) cases for a particular trial group at least 275 days prior to the trial date. If a case designated to a trial group is not yet subject to electronic filing, all case data including a case specific service list in the editable electronic spreadsheet format specified by Lexis/Nexis File & Serve shall be emailed to: [Ingcl-efile-di@lexisnexis.com](mailto:Ingcl-efile-di@lexisnexis.com) within five (5) business days of a case being assigned to an asbestos trial group. The Plaintiff's must file their initial disclosure on Lexis Nexis File & Serve five (10) days after a case is designated a part of a trial group as set forth in Appendix B.

The procedure of establishing trials for three (3) groups of plaintiffs a year was approved by the court after it was agreed to by almost all of the litigants involved in this Asbestos Personal Injury Litigation. Every historic litigant and all attorneys known to be involved or affected by this Order had, and continue to have, the opportunity to object to this "Trial Group" procedure. Therefore, it will be the continuing order of the Court that any party in an established Trial Group wishing to object to that Trial Group must file a specific timely written objection or its objections are waived.

Any party objecting to a Trial Group must file any specific written objections no later than fifteen (15) days after the discovery deadline.

## **6. MASTER FILE**

In addition to the Master File for Asbestos Personal Injury Litigation maintained in the Kanawha County Circuit Clerk's office there is created by this order a L/N "Master File"

captioned: **IN RE: ASBESTOS PERSONAL INJURY LITIGATION, CIVIL ACTION NO.: 03-C-9600**. The L/N Master File is to contain this Order, all master pleadings, master discovery requests and responses authorized by this Order, other pleadings of general applicability, trial calendars, case management orders, other orders of general applicability, including Memorandum orders issued in Civil Action No: 03-C-9600, notices of deposition, if they are not case specific, documents, reports, appendices, exhibits, studies, articles, depositions applicable and of general interest to the Asbestos Personal Injury Litigation, and other similar documents.

## **7. PROCEDURE FOR FILING AND ANSWERING COMPLAINTS**

The procedure for filing complaints alleging asbestos-related disease caused by Defendant's manufacture, sale, distribution, use, specification, disturbance, and/or installation of asbestos-containing products is as follows:

### **A. MASTER COMPLAINT**

Plaintiffs may file a L/N "Master Complaint" that contains all allegations and theories of recovery against all Defendants who have been served with a copy of plaintiff's "Short Form Complaint" in their asbestos-related disease case. (Defined herein.)

### **B. ASBESTOS-RELATED DISEASE COMPLAINT**

A Plaintiff must file the hard copy of his or her asbestos-related disease complaint in the proper West Virginia County. A Plaintiff must also electronically file copy of the time stamped Complaint on Lexis/Nexis File & Serve. The Complaint is to be uploaded onto Lexis/Nexis File & Serve as: document type "filed complaint." All complaints are to be served

in accordance with the West Virginia Rules of Civil Procedure and all applicable West Virginia statutes.

1. The complaint may be a “short form complaint” that incorporates the Master Complaint and contains the information in Appendix C. The short form complaint must state whether the Plaintiff is a category I, II, or III case and the relief demanded. It must also contain a statement that the complaint is filed pursuant to this order and that it incorporates the allegations and theories of the Master Complaint. This short form complaint may be amended pursuant to the West Virginia Rules of Civil Procedure and it may also contain any allegations, fact or theory of recovery peculiar to the cause of action asserted in the complaint.
2. All complaints, however filed, must provide all of the information required in a short form complaint.
3. Complaints that do not have the information required in a short form complaint are presumed to be deficient and may be immediately dismissed upon the filings of a proper motion by defense counsel.
4. All complaints shall be filed with a completed civil case information statement.
5. Electronic Filing and Service is not to be used to begin a civil action or to serve a new party with an amended or a third-party complaint. TCR 15.01(b).

### **C. MASTER ANSWER AND CROSS-CLAIMS**

All answers shall be linked and filed with a completed civil case information statement. Defendants may file on L/N a Master Answer to any Master Complaint filed in the Master File. It will then be sufficient for any Defendant to incorporate by reference the responses and defenses set forth in its Master Answer to any complaint thereafter filed. However, no

Defendant is deemed by the filing of the Master Answer to have waived the right to timely file a specific motion objecting to service of process, jurisdiction, venue or to assert any defense permitted under the West Virginia Rules of Civil Procedure.

#### **D. ANSWER TO AMENDED COMPLAINTS**

Where a complaint in an action is amended only to substitute a personal representative for an existing plaintiff or to add new defendants to an action, existing defendants in the action need not answer the amended complaint, and each defendant's answer to the prior complaint shall be deemed an answer to the amended complaint as well.

By this Order all Defendants are deemed to have filed cross-claims for contribution against all other Defendants, and all Defendants are deemed to have filed answers to such cross-claims, denying the same and raising all appropriate defenses.

By this Order all Defendants are deemed to have filed cross-claims for contribution against all other Defendants, and all Defendants are deemed to have filed answers to such cross-claims, denying the same and raising all appropriate defenses.

#### **8. DEFENDANTS' JOINT MASTER INTERROGATORIES**

Defendants may serve on L/N joint sets of Master Interrogatories on Plaintiffs that are based on the asbestos exposure Defendant groups. These Interrogatories may be filed and served in any individual asbestos personal injury lawsuit and responses are due thirty (30) days after service. Duplicative interrogatories for information already provided by Plaintiff's response to Appendices C and D are not permitted. No party shall be required to answer duplicate discovery requests. Any discovery request filed by any one Defendant shall be considered to have been filed by all Defendants. If referencing prior answers when answering interrogatories,

the answering party must cite the interrogatory containing the information and identify the previous answer. All parties are required to serve individual discovery requests and responses on all counsel of record. All responses to Defendants Joint Master Interrogatories must be served on all Defendants.

#### **9. PLAINTIFF'S JOINT MASTER INTERROGATORIES**

Plaintiffs may serve on L/N Master General Interrogatories on the manufacturing, distributing, contractor and premises Defendant groups. No party shall be required to answer duplicate discovery requests. The answers of each Defendant to the Plaintiff's Master Interrogatories shall not be deemed to waive the right of any Plaintiff to file non-duplicative case-specific Interrogatories, or the right of any Defendant to whom such Interrogatories are directed to object. If referencing prior answers when answering interrogatories, the answering party must cite the interrogatory containing the information. Each party is required to serve its individual discovery requests and responses on all counsel of record. Any Defendant not served with Plaintiff's Joint Master Interrogatories in any given case is under no obligation to respond.

#### **10. DEFENDANT'S MASTER REQUESTS FOR PRODUCTION OF DOCUMENTS**

Defendants may serve on L/N, with linking, on each Plaintiff a joint set of a Master Set of Requests for Production of Documents that are based on the Manufacturing, Distributing, and Premises Defendant groups. Responses are due thirty (30) days after service. The Defendants may not serve duplicative requests for production seeking documents already provided by Plaintiff's responses to Appendices C and D. Nothing in this section shall be deemed to waive

the right of any party to file non-duplicative, case-specific Requests for Production consistent with the West Virginia Rules of Civil Procedure, or the right of the party to whom such Requests for Production are directed to object. The Requests for Production is subject to any limitation in the West Virginia Rules of Civil Procedure. All parties are required to serve individual discovery requests and responses on all counsel of record . All responses to Defendant's Joint Master Requests for Production of Documents must be served on all parties .

#### **11. PLAINTIFF'S MASTER REQUESTS FOR PRODUCTION OF DOCUMENTS**

Plaintiffs may file on Lexis/Nexis File & Serve, with linking, one set of a Master Set of Requests for Production of Documents on the Manufacturing, Distributing, and Premises Defendant groups. Responses are due thirty (30) days after service. Nothing in this section shall be deemed to waive the right of any party to file non-duplicative, case-specific Requests for Production consistent with the West Virginia Rules of Civil Procedure, or the right of the party to whom such Requests for Production are directed to object. Such Requests for Production shall be subject to any limitation in the West Virginia Rules of Civil Procedure. All parties are required to serve individual discovery requests and responses on all counsel of record . All responses to Plaintiff's Joint Master Requests for Production of Documents must be served on all parties .

#### **12. PLAINTIFF'S MASTER REQUESTS TO ADMIT**

Counsel for the Plaintiffs shall be permitted to serve on L/N, with linking, a Master Request to Admit on the manufacturing/distributing and premises Defendant groups. The

answers of each Defendant to the Plaintiff's Master Request to Admit shall not be deemed to waive the right of any Plaintiff to file non-duplicative case specific Request for Admissions or the right of any Defendant to whom such Requests are directed to object thereto.

### **13. MASTER EXHIBIT LIST-RULES FOR PLAINTIFFS AND DEFENDANTS**

A. Plaintiffs shall file and serve on each defense counsel on L/N, with linking, one electronic Master Exhibit List, which will be placed in the L/N Master Case File, Civil Action No.: 03-C-9600. Each Master Exhibit List of Plaintiffs shall:

1. Identify the party filing the list;
2. Include the West Virginia Exhibit number, if applicable;
3. Provide the date, author, recipient and name of the document (if applicable);
4. Identify the parties against whom the exhibit list is designated; and
5. A master index identifying the name of each Defendant by abbreviation or another method.

B. Electronic filings containing Plaintiff's/Defendant's initial Master Exhibit List for each Trial Group shall be labeled **"Plaintiff's/Defendant's (including firm name) West Virginia Master Exhibit List, Civil Action No.: 03-C-9600, dated \_\_\_\_\_."**

C. Each Defendant shall file and serve on Plaintiff's counsel an initial one-time electronic Master Exhibit List. Each Defendant is only required to serve on each co-Defendant electronic notice that it has filed its Master Exhibit List.

D. All Plaintiffs and Defendants must file on Lexis/Nexis File & Serve their Master Exhibit Lists or incorporate and adopt such lists in accordance with the provisions of Exhibit B

and the appropriate Trial Group schedule. Furthermore, any exhibit designated for trial, but not included in the parties Master Exhibit List, may be excluded unless the Master List is supplemented before the applicable Trial Group deadline

E. This Exhibit List may be adopted by a Plaintiff or Defendant in any individual case without the necessity of re-filing the Master Exhibit List. Any Exhibit List adopted or incorporated by reference by an individual Plaintiff must be clearly identified by name, date and, if applicable, amendments and Lexis/Nexis Transaction Identification Number and shall be “linked” to the pleading adopting the Exhibit List.

F. At no time shall a Plaintiff’s counsel adopt the Master Exhibit List of another Plaintiff’s counsel without Court approval. Furthermore, the filing of a Plaintiff counsel’s Master Exhibit List shall not entitle another Plaintiff’s counsel to use such designated exhibits at any time without Court approval.

#### **14. MASTER EXHIBITS**

At least one electronic Master Exhibits shall be served by the Plaintiff in accordance with the deadline established by Exhibit “B”. Exhibits are to be designated to specific Defendants, unless designated as applicable to all Defendants. Defense counsel shall make arrangements to obtain a copy of Plaintiff’s Master Exhibits once they are served on a designated defense representative. Defendants have the option of producing Master Exhibits in an electronic or paper form. However, each Defendant is required to serve one electronic or paper copy of its Master Exhibits on each set of Plaintiff’s counsel who has cases against that Defendant in the Trial Group. A Defendant is only required to provide notice of the filing of its Master Exhibits on each co-Defendant’s counsel and offer them for review or copying at the requesting

Defendant's cost. All exhibits shall be "Bates stamped" or otherwise sequentially numbered. If a party fails to provide any of the Master Exhibit Lists, Master Exhibits or Amended Exhibit Master Lists the court may preclude the exhibit from use at the trial of the lawsuit.

## **15. AMENDED EXHIBIT LISTS AND EXHIBITS**

A. After the filing, service, and "linking" of the initial Master Exhibit Lists and Master Exhibits in accordance with "Exhibit B", Plaintiffs and Defendants are not required to reproduce their Master Exhibit Lists or Master Exhibits unless new Defendants and/or exhibits are added or new Plaintiffs have cases against a Defendant in subsequent Trial Groups. New Plaintiff's counsel are required to serve an Amended Exhibit List and all new Master Exhibits on defense counsel in an electronic form and clearly identify the new exhibits. However, Defense counsel may make arrangements with Plaintiff's counsel to obtain copies of the Amended Exhibit Lists and new Master Exhibits. Each Defendant is required to serve its Master Exhibit List or Amended Exhibit List and all Master Exhibits on Plaintiff's counsel who have not previously had a case against that Defendant.

B. For each Amended Plaintiff/Defendant Master Exhibit List, the electronic data shall be labeled "**Plaintiff's/Defendant's (including firm name) First Amended (each will be successively named) West Virginia Master Exhibit List, Civil Action No.: 03-C-9600, dated \_\_\_\_\_.**" Each Defendant is required to produce to Plaintiff the electronic or paper copies of new exhibits being designated by the Amended Master Exhibit List. Each Defendant shall notify each Defendant in the Trial Group of the filing of an Amended Master Exhibit List and shall provide a copy of any exhibit upon request.

C. Plaintiff's electronic Amended Master Exhibit List shall, to the extent applicable,

name and identify each new Defendant being added to the Master List along with the exhibits being designated against it in the litigation. If the Amended Exhibit List does not add a new Defendant but only new Master Exhibits, the Amended Exhibit List shall identify and link each new exhibit being designated with the party against whom it is being offered.

## **16. MOTIONS**

A. Motions and their responses **on issues common to all asbestos personal injury cases** are to be filed in the Lexis/Nexis Master File. Motions and their responses on issues that are not common to all asbestos personal injury cases **are not** to be filed in the L/N Master File. All Responses to Motions are to be “linked” to the pleading to which they are responding. A party seeking the same relief as that sought in another party’s motion or response must file their own motion. However, if a party’s response is **identical to another party’s response** on issues common to more than one case, there is no need to duplicate the response, attachments, and legal memoranda. A “Notice” adopting the response, attachments and legal memoranda may be filed in the Master File. **Any Notice to adopt another pleading or filing must “link” the adopted pleading, or filing that was filed in the Master File.**

B. Proposed Orders must be filed with all Motions and Responses. Proposed Orders must be filed as a separate supporting document from the main document on which you want the court to rule. You must “electronically staple” supporting documents to the main document by using the Main/Supporting column when filing through Lexis/Nexis File & Serve. Proposed Orders must be submitted in Rich Text Format (RTF) (TCR 15.10(d)).

C. Any hardcopy Order that has been signed by the Judge and returned to counsel must be uploaded onto Lexis/Nexis File & Serve by the attorney receiving the original Order! The Order

should be uploaded as: document type “entered order” in Lexis/Nexis File & Serve.

D. SPECIFIC MOTIONS:

1. MEDICAL COURT ORDERS. All parties wishing to object to a proposed medical Court Order must file an appropriately linked objection to the Motion for Medical Court Order within (5) judicial days. If no objection is received with five (5) judicial days, the Court will deem it unopposed and may grant the relief requested as set forth in the proposed order.

2. PRO HAC VICE: Anyone wishing to object to a motion for a proposed pro hac vice admission Order must file an appropriately linked objection to the Motion within (5) judicial days. If no objection is received with five (5) judicial days, the Court will deem it unopposed and may grant the relief requested.

3. EMERGENCY/EXPEDITED MOTIONS: In the event that a moving party needs relief on an expedited basis the following rules shall apply:

- a. The title of the Motion shall indicate that it is an expedited Motion.
- b. The Motion shall set forth the facts upon which the moving party relies and that is has been served upon all known interested parties.
- c. The Moving Party shall call the Judge’s law clerk and make the Court aware that an expedited Motion has been filed
- d. After reviewing the Motion the Court will give notice of the limited time opposing counsel has to respond.

4. SPECIFIC TRIAL RELATED ISSUES.

- a. Counsel will be permitted to address issues raised in the Juror Questionnaire.

However, if there are other voir dire questions, other than bias or juror

qualification questions, they are to be submitted in writing by hard copy to the court no later than one (1) day prior to jury selection.

- b. West Virginia Rules of Evidence issues must be brought to the court's attention at least thirty (30) days prior to jury selection. Furthermore, at least forty-five (45) days prior to jury selection, counsel must file and alert the court of any Evidence Rule 404, 608, 609, 701 and 702 issues.
- c. Parties who have not settled by 9:00 a.m. the day before jury selection begins are, after consulting with opposing counsel, to provide to the Court, by 3:00 p.m. that same day, a list, with the Transaction Identification Numbers, of all contested Motions in Limine.
- d. Jury instructions and verdict form. Any proposed jury instruction that is not based upon West Virginia law must be submitted in hard copy to the court ~~two~~ (2) days prior to jury selection. All proposed jury instructions and verdict forms are to be submitted to the court by 4:00 o'clock p.m. on the second day of trial.
- e. A party who has not settled a case set for trial by 3:00 p.m. the day before Jury selection shall have present in the courtroom by 8:30 a.m. the next day, and for the balance of the trial, the individual(s) with full authority and the right to decide whether settlement of the case is in the party's best interest. This requirement will be enforced by a contempt of court show cause order.
- f. Legal memoranda are required for all motions. Memorandums are to list, by number, the facts necessary to the determination of the motion and the law applicable to those facts which mandate the granting of the motion. Summary

Judgment motions may be filed when they are ready. However no Summary Judgment motion can be filed later than 25 days before trial Summary Judgment motions should not contain a recital of West Virginia Summary Judgment law. Responding counsel is to reply within ten (10) days after receipt of the Motion. Excluding exhibits, no memoranda may exceed five (5) pages!

- g. Plaintiff and Defense counsel may draft and approve Master Motions in Limine and Responses that may be relevant to a present or future trial groups. However, any Master Motion in Limine and Response that is to be considered by the court in a trial group must be filed again in that Trial Group in accordance with the time limits of Appendix B and the appropriate Trial Group schedule.

## **17. AMENDMENT OF COMPLAINTS**

A. Wrongful death amendments are to be filed within forty-five (45) days of notice to the Plaintiff's Counsel. All other motions for leave to amend a Plaintiff's Complaint are to be filed within forty-five (45) days after the Plaintiff has been designated in a Trial Group. If a Motion for Leave to Amend Complaint is filed more than forty-five (45) days after the Plaintiff is designated in a Trial Group and the Court grants the motion, the Court, after giving all interested counsel the opportunity to state their position, may remove the Plaintiff from the trial group and order when the removed Plaintiff can be placed in another Trial Group.

B. Motion to Amend to Add Party: Within five (5) business days of serving a

Motion to amend a complaint to add a new party to the case, the moving party must add the new party's information to the Lexis/Nexis system using the Case and Party Management feature. The moving party is to serve a newly added party with an amended complaint or third party complaint pursuant to Rule 5 of the West Virginia Rules of Civil Procedure. (See also Trial Court Rule 15.02(b).) If a party to be added does not have a registered user, service is by serving the party with the motion or pleading pursuant to Rule 5 of the Rules of Civil Procedure.

C. Objections to Motions to Amend Complaints or to add Wrongful Death Claim and/or Substitute Parties are to be filed and appropriately linked to the Motion within five (5) judicial days of the L/N filing. If no objection is received within five (5) calendar days, the Court will deem it unopposed and may grant the relief requested.

## **18. NO EVIDENCE LETTERS**

A. In accordance with the provisions of Appendix B and the appropriate Trial Group Schedule,

1. Any Defendant who is an employer or premises defendant and who is not identified in Appendix D; and
2. Any Defendant who is not identified in any Plaintiff or co-worker deposition, or by other competent evidence disclosed to said defendant may submit to Plaintiff's counsel a proposed dismissal order together with a "no evidence letter" requesting dismissal from the lawsuit.

B. If Plaintiff agrees to the dismissal, a Dismissal Order shall be endorsed by Plaintiff's counsel promptly upon receipt of the Order or Plaintiff shall file a written objection

that identifies the witness(es) and other evidence that Plaintiff believes may be offered against the Defendant and states the specific reasons the order should not be entered. If the order is not endorsed by Plaintiff's counsel, and no objection is filed within thirty (30) days, upon notice to Plaintiff's counsel, Defendant may tender the Order to the Court for entry.

All cases dismissed pursuant to "no evidence letters" shall be "without prejudice" unless counsel agrees that it should be "with prejudice". **However, all "no evidence letter" cases dismissed without prejudice shall automatically-- with or without another Order-- become dismissals "with prejudice" ten (10) days after the close of the discovery period for that case's discovery group deadlines.** The exception to this rule is that Plaintiff's counsel may file a motion with a legal memorandum within ten (10) days after the close of the discovery period requesting a stay of the automatic "with prejudice" dismissal. The filing of the motion shall stay the dismissal "with prejudice." If Defense counsel contests the stay, a Reply legal memorandum must be filed within twenty (20) days of the receipt of Plaintiff's motion. The Court will then either enter an Order on the issue or set a hearing date.

**19. GENERAL DISCOVERY REQUIREMENTS AND DEADLINES THAT ARE NOT TO BE CHANGED IN APPENDIX B**

A. In addition to the discovery requirements imposed by the West Virginia Rules of Civil Procedure, this Order sets additional deadlines and requirements for disclosure of information in all cases. Failure to meet these deadlines may result in exclusion at trial of the untimely-disclosed evidence or a continuance of the trial. Relief from these deadlines will be granted only for good cause shown.

B. Responses to Discovery

All written discovery requests are to be served at least sixty (60) days prior to the expiration of the discovery deadline for the applicable Trial Group. Discovery responded to must be supplemented, if necessary, by the discovery deadline.

C. Disclosure of Witnesses

1. Product and Premises Identification Witnesses: A product or premises identification witness is anyone who will identify or dispute a particular asbestos-containing product or respiratory protection equipment, or the manufacturer, distributor, installer or remover thereof, or the exposure or lack thereof by a Plaintiff to asbestos or asbestos-containing products at a particular work site. Plaintiffs shall designate electronically for each Plaintiff all product and premises identification witnesses. All cross-designations of co-worker witnesses (product or premises) shall be completed within seventy-two (72) hours after the co-worker is first noticed for deposition. Failure to comply with the cross-designation requirement may preclude any other party from using the co-worker for discovery or trial purposes.

a. Disclosure Deadline: Each Plaintiff is to disclose all products and premises identification witnesses within one hundred twenty (120) days after the assignment of a case to a Trial Group. The disclosure is to be filed in the Master File properly labeled with the designation of the assigned Trial Group and the Plaintiff for which the disclosure is made. No additional product or premises identification witnesses may be added by any Plaintiff without agreement of the parties or Court approval.

b. Information Required: The Plaintiff's disclosure for each product and premises identification witness is to follow the format of Appendix E.

c. Failure by a Plaintiff to fully comply with any of these disclosure deadlines for

product and premises identification witnesses may result in the removal of that Plaintiff from his or her Trial Group.

2. Lay Witnesses: No later than sixty (60) days prior to the end of discovery, all parties are to disclose electronically all lay witnesses who may testify at trial. Lay witness designations are to be filed in the cases each party has in the Trial Group.

3. Expert Witnesses and Disclosure: Except as herein stated, the plaintiffs are to disclose electronically all expert witnesses and W. Va. Civil Procedure Rule 26(b) (4) information about those experts no later than 150 days prior to trial. Defendants are to electronically disclose non-medical experts with 26(b) (4) information, no later than ninety (90) days prior to trial. All such designations by both parties shall be filed in the cases each party has in the trial group.

4. Rebuttal Witnesses: Plaintiffs are to disclose any rebuttal medical expert, electronically no later than fifteen (15) days before the expiration of the discovery deadline. Non-medical rebuttal witnesses are to be disclosed by plaintiffs electronically no later than thirty (30) days before the expiration of the discovery deadline. Said designation shall be filed in the Master File and be labeled and “linked” to display the applicable Trial Group.

D. Depositions

1. Who May Be Deposed: Defendants may depose Plaintiff, Plaintiff’s spouse, co-workers, other fact witnesses, treating physicians, and any expert retained by the Plaintiff who is expected to testify at trial. Plaintiff may depose Defendant, any fact witness designated by Defendant, and any expert retained by Defendant who is expected to testify at trial.

2. Deadline for Depositions:

a. Plaintiff and Plaintiffs Spouse: Within ten (10) days after the case is placed in a Trial Group, Counsel for Plaintiff shall provide dates for Plaintiff and his or her spouse for deposition. The Plaintiff and spouse's deposition are to be completed within sixty (60) days from the date the Plaintiff was designated for a Trial Group unless otherwise agreed to by the party.

b. Product and Premises Identification Witnesses: At least thirty (30) days prior to the expiration of the discovery deadline, product and premises identification witnesses are to be deposed. However, by written agreement, rebuttal witnesses may be deposed after this deadline. A witness for a party who is not made available for deposition by that party is precluded from testifying at trial.

3. Other Witnesses, Including Experts: All depositions and supplemental depositions shall be completed by the discovery deadline.

4. Required Notice: Depositions must be noticed at least ten (10) days in advance of the date the deposition is scheduled to occur. By written agreement, all counsel may waive this requirement. The "Notice" is to disclose each Defendant that the deponent may be identifying in the deposition.

5. Attendance at Depositions: Defendants who are not disclosed in the required Notice do not need to attend the deposition and nothing in the transcript of said deposition may be used against the non-disclosed defendant at trial.

6. Duplicative Depositions: The existence of a prior deposition of a witness does not necessarily preclude the taking of additional depositions of that witness in the

designated Trial Group or in another Trial Group. However, any further depositions objected to by any party shall not be conducted without prior order of this Court.

7. Designations: Parties may seek to designate deposition testimony of unavailable witnesses. By the expiration of the discovery deadline, except for the use of a deposition to cross-examine an adverse witness, Plaintiffs are to designate via L/N any depositions they intend to offer at trial. Not later than fifteen (15) days after the discovery deadline, Defendants are to designate via L/N any depositions they intend to offer at trial. Plaintiffs and Defendants shall designate in writing the page(s) and line(s) of any deposition they intend to use at trial 2 business days (48 hours) prior to use at trial. Counter page and line designations and objections shall be made at least one business day (24 hours) prior to use at trial. The party designating the deposition shall provide a paper copy of the designated transcripts (as well as a copy of the videotape if the party intends to offer a videotape deposition) to opposing counsel, and a statement stating why the witness is unavailable.

## **20. RULE 35 EXAMINATIONS**

Defendants shall be entitled upon notice to all counsel to have each living Plaintiff, who claims to have been injured as a result of asbestos exposure, undergo a Rule 35 examination (“Examination”) by a physician or physicians of their choosing. The Examination may include, but is not limited to, pulmonary function testing, chest x-rays, physical examination, EKG, arterial blood gas studies and carboxyhemoglobin testing.

A. Scheduling: Although it may not be possible for a single physician to perform all parts of an Examination, counsel for Defendant is to make good faith effort to schedule the entire Examination on a single day. Counsel for Defendants in the Trial Group are to make a good

faith effort to agree upon the physician(s) who will perform the Examination. The Examination is to be scheduled at least one hundred twenty (120) days before the discovery deadline and all Examinations are to be completed no later than ninety (90) days before the discovery deadline.

B. Limitations: Any Plaintiff claiming that a medical condition prevents him or her from undergoing a physical examination, or requires a limited examination, must provide defendant's counsel with a written signed statement by Plaintiff's treating physician supporting the claim. Further, a Defendant may petition the Court for a full and complete physical examination. The fact that an Examination was not conducted or was limited can be explained by the defense experts testifying at trial.

C. Cost: Defendants shall pay all reasonable expenses incurred by any Plaintiff in attending Rule 35 medical exams, including travel expenses.

D. Scope of This Section: Nothing in this section shall preclude any party from having any medical records, x-rays, CT scans, test results or pathology relevant to the litigation reviewed by any physician or expert of its choosing. Nothing in this section shall require Defendants to have all tests outlined above performed as part of every Examination. Nothing in this section shall preclude any party from seeking for good cause an Order for additional examinations or tests if the circumstances warrant such an examination.

## **21. RECORDS**

A. Authorization for Release: Within twenty (20) days after the designation of the Trial Group, Plaintiffs must provide Defendants with authorization sufficient to allow counsel for Defendants to obtain Plaintiffs' social security records, employment records, tax records, relevant medical records, x-rays, CT scans and/or pathology. ANY ISSUE CONCERNING

MEDICARE RECORDS IS TO BE PROMPTLY BROUGHT TO THE COURT'S ATTENTION THROUGH WRITTEN ARGUMENT FROM ALL INTERESTED COUNSEL. Plaintiffs must provide an updated authorization within ten (10) days of a request by a defendant. All such releases are to be in the form set forth in Appendix F.

B. Method for Obtaining Records: Unless there is an issue concerning medical records that is before the court, all medical records relevant to the litigation may be obtained by subpoena duces tecum, with prior notice to all parties. The Clerk is authorized to issue such a subpoena. Additionally, any party may move the court for an order requiring a hospital or other healthcare provider to provide original x-rays, CT scans and pathology material after the provider refuses to do so in response to a proper request by authorization or subpoena. However, it is the duty of the attorney to make arrangements with the providing facility to promptly return any original materials that may be required by a hospital or doctor for use in any ongoing care or treatment of a particular Plaintiff.

C. Medical Records Depository: A legible copy of all medical records (including all pulmonary function test reports with flow loops) and the originals of all x-rays, CT scans and pathology obtained by any party shall be placed with Defendant's Coordinating Counsel or any Medical Counsel designated by Defendants in one location to be identified as a "medical records deposition." It shall be the duty of the custodian of these records, x-rays, CT scans and pathology to keep a record of their whereabouts when they are being used by counsel and to preserve their integrity while in the custodian's custody and control.

D. Responsibility for Depositing Records in the Medical Records Depository:

1. Plaintiff's Responsibility: Plaintiff's counsel shall, immediately upon receipt, provide to the medical records depository (1) a copy of all relevant medical records, x-rays, CT

scans, tests and pathology materials obtained with regard to a Plaintiff, and (2) the original of any x-rays, CT scans and pathology materials obtained with regard to a Plaintiff. Plaintiff's counsel shall notify all Defense counsel of the deposit identifying generally the records and materials being provided to the depository. Plaintiffs' counsel shall have a continuing duty to immediately deposit any additional relevant records or materials obtained after the 240-day deadline and to notify defense counsel of the deposit. Failure of the Plaintiff to deposit records or materials in accordance with this section shall preclude, except for good cause shown, any expert witness called by the Plaintiff from using or referencing the particular records or materials at trial. If proper Notice has been given the Plaintiff does not have to provide medical records or materials in response to any discovery request as long as the records or materials have been deposited with the medical depository. Upon request, Defendant coordinating counsel is allowed to remove medical materials and records from the repository once an order is entered by the Court.

2. Defendant's Responsibility: Any medical records, x-rays, CT scans, tests and/or pathology materials of a Plaintiff generated as a result of a Rule 35 medical examination shall be provided to the medical records depository by defense counsel no later than thirty (30) days before the expiration of the discovery deadline. Failure of Defendant(s) to deposit these records or materials by that time shall preclude, except for good cause shown, any expert witness called by the Defendant(s) from using or referencing the records or materials generated by the Rule 35 medical examination at trial. Where, in the course of discovery, defense counsel obtains medical records or materials regarding a specific Plaintiff that have not previously been deposited and defense counsel intends to use at trial, defense counsel shall deposit such records or materials within forty-eight (48) hours and give the required notice to all counsel.

## **22. CLAIMS AGAINST BANKRUPTCY TRUSTS**

(A) Required Disclosures - For any asbestos action with a trial date established after the October, 2010 Trial Group:

(1) Upon the designation of a claim for trial, claimant shall provide the parties a disclosure setting forth at a minimum the name of plaintiff, name of spouse, address, date of birth, the nature of diagnosis of the asbestos related disease, the civil action number, the work history and/or exposure history including the worksites, employer and trade or occupation. The court may require other items for disclosure.

(2) No later than one hundred twenty (120) days prior to the date set for trial for the asbestos action, a claimant shall provide to all parties a statement of any and all existing claims that may exist against asbestos trusts. In addition, the statement shall also disclose when a claim was or will be made, and whether there has been any request for deferral, delay, suspension or tolling of the asbestos trust claims process. The statement must contain an Affidavit of the Plaintiff or Plaintiff's counsel that the statement is based upon a good faith investigation of all potential claims against asbestos trusts.

(3) As to any claims already asserted against asbestos trusts, the claimant shall produce final executed proofs of claim together with any supporting materials used to support such claim against the asbestos trusts, all trust claims and claims material, and all documents or information relevant or related to such claims asserted against the asbestos trusts, including but not limited to, work histories, depositions, and the testimony of the claimant and others as well as medical documentation.

(4) In the event information obtained subsequent to the submission of the

statements supports the filing of additional claims against asbestos trusts, the claimant shall update the statement by amendment filed and served within thirty (30) days of the receipt of the information but in no event later than the commencement of the trial.

(B) Sanctions for Non-Compliance

(1) Any defendant after thirty days of receipt of the statement from the claimant may proceed by motion that the plaintiff has failed to comply with the requirements set forth in subsection (A)(2) above. The burden remains with the defendant to show lack of compliance. If the court determines lack of good faith compliance the failure of the plaintiff to abide by the disclosure requirements may result in the case being stricken from the trial group and whatever other sanctions the court deems appropriate. The Court may also impose sanctions if it determines the Motion was not brought in good faith by defendants.

(2) Motions regarding noncompliance with the disclosure requirement shall be heard no later than thirty (30) days prior to the trial date.

(C) Treatment of trust claims and claims material - Trust claims and claims material (as well as related discovery materials) may be relevant to and shall be discoverable in an asbestos action and shall be presumed by the court to be authentic, and counsel for Plaintiff may not raise work product or other privileges and such trust claims and claims materials may be used by the parties in the asbestos action to prove alternative causation for the claimant's asbestos exposure as well as any other purpose provided for under the laws of the State of West Virginia. Notwithstanding the above, before any such material is admitted, the Court may issue a limiting instruction setting forth the fact that the trusts requirements for the exposure may differ from the exposure required by the Court of the remaining defendants. Furthermore, the Court may note, that an application to a trust for compensation only requires providing information about the

specific product alleged to have contributed to injury and not the fact that claimant may have been exposed to other products. Nothing contained in this CMO shall be deemed to affect the authority of a Federal Bankruptcy Court.

(D) Discovery of other materials - In addition to the mandatory disclosure requirements of this CMO, additional disclosure and discovery of information relevant to the asbestos action may be sought by any mechanism provided by the applicable Rules of Civil Procedure. Defendants in an asbestos action may also seek discovery from the asbestos trusts. The claimant shall assist in any discovery from the asbestos trusts and provide whatever consent or expression of permission may be required by the asbestos trusts for release of such information and materials.

(E) Set-offs and Assignments - The defendants will be entitled to set-offs or credits of the paid liquidated value of the trust claims against any judgment rendered against them in the asbestos action and the Court shall provide a hearing for this purpose. The Court can require each claimant to disclose the total amount received or reasonably expected to be received from the bankruptcy proceedings, or any settling defendant. In the event that a judgment is rendered in an action before a claimant has received a payment, the claimant shall assign to all defendants against whom the judgment is rendered his or her rights to all unpaid bankruptcy claims, whether filed with trust or not, and the claimant shall cooperate with and assist the defendants in obtaining damages due and owing to claimant from each asbestos trust as provided by each trust's trust distribution process. It shall be the intention of the claimant and of the court that any such defendant's claim filed with any such asbestos trust will be treated exactly as if the claimant had submitted the claim for any and all purposes under the terms, conditions and provisions of the trust claim procedures. To the extent that any applicable law provides broader relief to the

defendants than is set forth herein, nothing in this provision shall prohibit any defendant from pursuing such broader relief.

(F) As used in this section 22, terms will have the following meanings:

(1) “Trust claims and claims material” means all documents and information including, but not limited to, claim forms and supplementary material, relevant or related to pending or potential claims against asbestos trusts.

(2) “Asbestos trusts” means all trusts or claims facilities created as result of bankruptcies, including but not limited to, all trusts created pursuant to 11 U.S.C. §524(g), intended to provide compensation to claimants alleging claims as a result of asbestos exposure.

## **23. CATEGORIES OF CASES**

### **A. Definitions**

1. For the purposes of this Order, a “board-certified pulmonary specialist” or “board-certified internist” means a physician currently licensed to practice medicine in the United States who is currently actively certified by the American Board of Internal Medicine in the subspecialty of pulmonary medicine (Pulmonary Specialist) or the American Board of Internal Medicine (Internists) and has personally examined the Plaintiff for whom the report is rendered.

2. A “currently certified B-reader” is an individual who has successfully completed a NIOSH-sponsored x-ray interpretation course and whose NIOSH certification is up to date.

3. An “ILO grade” is the radiological ratings in the International Labor Office set forth in the “Guidelines for the Use of ILO International Classification of Radiographs of Pneumoconiosis” (1980).

4. A “chest x-ray” means a chest film taken in two views (PA and Lateral) that is of

readable quality according to ILO criteria.

5. “Pulmonary Function Testing” refers to spirometry and lung volume testing which:
  - a. conforms to quality criteria established by the American Thoracic Society (“ATS”);
  - b. is performed on equipment which meets ATS standards for technical quality and calibration and;
  - c. each subject must be tested with and without inhaled bronchodilators, with best values taken, all as set forth in 20 C.F.R. 718.103 and Appendix B thereto or in the ATS guidelines in 144 American Review of Respiratory Disease, pp. 1202-18 (1991); 152 American Journal of Respiratory and Critical Care Medicine pp. 1107-1136 and 2185-2189 (1995). Predicted values for spirometry and lung volume shall be those published by Morris, *Clinical Pulmonary Function Testing, 2<sup>nd</sup> Ed.* Intermountain Thoracic Society (1984). Hankinson, *Spirometric Reference Values from a Sample of the General U.S. Population*, 159 American Journal of Respiratory and Critical Care Medicine, pp 179-87 (1999).

**B. CATEGORY I CASES ARE EXIGENT MESOTHELIOMA AND LUNG CANCER CASES.**

Any living Plaintiff diagnosed with malignant mesothelioma or asbestos-related lung cancer by a board-certified pathologist shall have his or her case designated as a Category I Case and be considered as first priority in any Trial Group established by the Court under this Order. A board-certified pathologist must provide a report stating to a reasonable degree of medical probability that Plaintiff’s contraction of mesothelioma, or asbestos-related lung cancer was a proximate result of his/her exposure to asbestos and/or asbestos-containing products.

A category I plaintiff in a trial group who was not deposed and dies after the entry of this Order becomes a Category II Case. When that happens at least one hundred and fifty (150) days before the discovery deadline, counsel for the deceased plaintiff is permitted to substitute one other Category I Plaintiff in his or her place. If the Category I substitution should also die after the one hundred fifty (150) days prior to the discovery deadline, Plaintiff's counsel may proceed with the case in the trial group.

C. CATEGORY II CASES: Non-Exigent Mesothelioma and Cancer Cases

Deceased Plaintiffs who were diagnosed by a board-certified pathologist as having had malignant mesothelioma, or asbestos-related cancer shall be designated as Category II cases and considered as second priority in any trial group. The Board-Certified pathologist must provide a report stating to a reasonable degree of medical probability that the deceased Plaintiff's contraction of mesothelioma, or asbestos related lung cancer was the proximate result of his/her exposure to asbestos and/or asbestos-containing products.

D. CATEGORY III CASES – Non-Malignant Cases (All cases other than those in Categories I and II who have been diagnosed with an asbestos-related disease).

**24. PERSONALLY IDENTIFIABLE INFORMATION**

A. Lawyers and courts do not pay enough attention to the disclosure of personally identifiable information (PII). Identity theft is reported to be the fastest growing crime in the country. In litigation there is no way to completely protect people from all PII disclosure. Therefore, the following PII information is not to be disclosed on L/N:

1. Personal identification numbers, such as social security number(SSN), passport number, driver's license number, taxpayer identification number, financial account or

credit card number, email address, street address or telephone number.

2. Personal characteristics, including photographic image, fingerprints, handwriting, or other biometric image or template data
3. Contemporaneous with the filing of Appendix D on L/N, Plaintiff's counsel shall provide the Plaintiff's/Decedents date of birth, social security number, Medicare health insurance number, if applicable, address, telephone number and date of death, if applicable to Defendant's Liaison Counsel for the particular case for distribution to the Defendants in each case.

#### **25. JOINT DEFENSE PRIVILEGE**

The Joint Defense Privilege is presumed and by conferring or meeting or exchanging information Defendants have not waived any attorney/client or work product privilege.

#### **26. WAIVER OF CMO PROVISIONS**

The Court, after providing notice to counsel and an opportunity to be heard, may waive provisions of the CMO for exceptional or extraordinary circumstances.

#### **27. FINAL DISMISSAL OF CASE**

A. Dismissal of Defendants. The parties shall file a proposed order endorsed by counsel for Plaintiffs and Defendants. If the order is "without prejudice" it shall automatically, with or without another order, become a "with prejudice" order ten (10) days after the close of discovery for the particular trial group unless Plaintiff's counsel files a motion with a legal memorandum within said ten (10) day period requesting a stay of the automatic "with prejudice" dismissal.

The filing of the motion shall stay the dismissal “with prejudice” until further order. Counsel for the Defendant shall file a reply legal memorandum within twenty (20) days of the receipt of Plaintiff’s motion. The Court will then enter an order on the issue or set a hearing date. If the Court orders that a case should not be dismissed with prejudice, the case will be reinstated and set in a subsequent trial group. However, absent a “Notice of Final Dismissal of Pending Claims,” the dismissal of a defendant does not divest the Court of jurisdiction with regard to enforcement of settlements or other agreements. For cases dismissed without prejudice, pursuant to a “Notice of Dismissal” defendants may file motions for entry of final judgment beginning two years after the dismissal.

B. Final Dismissal. When the plaintiff has filed the final endorsed Stipulation of Dismissal and there remains no further need for enforcement jurisdiction, the plaintiff shall file a “Notice of Final Dismissal of Pending Claims.” The filing of this Notice closes the case statistically and completely divests this Court of jurisdiction over the matter. If no Notice of Final Dismissal of Pending Claims is filed, the case shall be considered open and active.

C. Within five (5) business days of a case or party being dismissed, the moving party or parties shall update the LexisNexis File & Serve system with the information necessary to effect the change in case or party status using the Case & Party Management feature.

## **28. CONFLICT BETWEEN THIS ORDER AND APPENDIX B**

To the extent that this Case Management Order conflicts with Appendix B, the Case Management Order shall control.

IT IS SO ORDERED.

ENTER: JANUARY 3, 2012

/s/ Ronald E. Wilson  
Ronald E. Wilson, Judge assigned to “Asbestos Personal Injury Litigation.”  
First Judicial Circuit  
State of West Virginia

## APPENDIX A

### West Virginia County Listing File & Serve Abbreviations

Abbreviation	County	Judicial District
PND	Pendleton	Twenty-Second Judicial Circuit
PLE	Pleasants	Third Judicial Circuit
PHS	Pocahontas	Eleventh Judicial Circuit
PRN	Preston	Eighteenth Judicial Circuit
PNM	Putnam	Twenty-Ninth Judicial Circuit
RAL	Raleigh	Tenth Judicial Circuit
RND	Randolph	Twentieth Judicial Circuit
RIT	Ritchie	Third Judicial Circuit
RNE	Roane	Fifth Judicial Circuit
SMR	Summers	Thirty-First Judicial Circuit
TLR	Taylor	Nineteenth Judicial Circuit
TKR	Tucker	Twenty-First Judicial Circuit
TYL	Tyler	Second Judicial Circuit
UPR	Upshur	Twenty-Sixth Judicial Circuit
WNE	Wayne	Twenty-Fourth Judicial Circuit
WBR	Webster	Fourteenth Judicial Circuit
WTZ	Wetzel	Second Judicial Circuit
WRT	Wirt	Fourth Judicial Circuit
WDE	Wood	Fourth Judicial Circuit
WMG	Wyoming	Twenty-Seventh Judicial Circuit

Note: Abbreviations used in case number field on LexisNexis File Serve.

APPENDIX B

DEADLINE		DESCRIPTION OF ACTIVITY
0 days (275)	§ 5.	Designation of Trial Group by plaintiffs' Counsel
5 days (270)	§ 5.	Plaintiffs' Electronic Spreadsheet to L/N if case not on system
10 days (265)	§ 5. § 19.D.2.a.	Plaintiffs' Initial Disclosure filed on L/N Plaintiffs provide dates for depositions of plaintiffs and spouses
20 days (255)	§ 21.A.	Plaintiffs provide medical and other releases. If available plaintiffs provide all tissue for mesothelioma and other malignancies (if not available at the time, it shall be produced at the earliest possible date)
30 days (245)	§ 3. § 5.	Designation of coordinating counsel by defendants Deadline for objections to multi-plaintiff trial
45 days (230)	§ 17.A.	Motions to amend due (wrongful death motions to amend due within 45 days of notice to plaintiff's counsel of plaintiff's death) – if motion seeks to add new parties, must submit new party information to L/N within 5 days
50 days (225)	§ 17.C.	Objections to motion to amend due
60 days (215)	§ 19.D.2.a.	Plaintiffs provide completed Appendix D (Fact Sheets) Completion of plaintiff and spouse depositions (except by agreement of parties)
70 days (205)	§ 18.	No evidence letters for employer and premises defendants. May submit dismissal order
90 days (185)	§ 4.2.	Deadline for requesting hardship case substitute
95 days (180)	§ 22.	Bankruptcy affidavits due
97 days (178)	§ 4.5.	Defendants' objections to proposed hardship cases
100 days (175)	§ 18.B.	Plaintiffs to endorse agreed dismissal orders submitted by employer and premises defendants or file objection. If no objection, defendant may submit to Court for entry
105 days (170)	§ 4.4.	Appendix D due for cases where hardship substitution was requested
110 days (165)		Deadline for dispositive motions based on jurisdiction, venue and/or standing
120 days (155)	§ 19.C.1.a.	Plaintiffs' disclosure of product and premises identification witnesses
125 days (150)	§ 20.A. § 19.C.3.	Rule 35 examinations to be scheduled Plaintiffs' disclosure of expert witnesses
130 days (145)		Deadline for response to dispositive motions based on jurisdiction, venue and/or standing
145 days (130)	§ 13.D.	Plaintiffs and defendants file master exhibit lists
155 days (120)	§ 20.A.	Rule 35 examinations to be completed
185 days (90)	§ 19.C.2. § 19.C.3.	All parties disclose lay witnesses Defendants disclose non-medical expert witnesses

DEADLINE		DESCRIPTION OF ACTIVITY
185 days (90)	§19.B.	Last day to serve written discovery
215 days (60)	§ 19.D.2.b.	Last day to depose product and premises identification witnesses
215 days (60)	§ 19.C.4.	Plaintiffs disclose non-medical rebuttal witnesses
225 days (50)	§ 18.	No evidence letters for all defendants. May submit dismissal orders
230 days (45)	§ 16.D.4.b. § 19.C.4.	Filing and alerting court of Evidence Rule 404, 608, 609, 701 and 702 issues Plaintiffs disclose rebuttal medical experts
245 days (30)	§19.D.7.  § 16.D.4.b.	Deposition designations for use at trial by plaintiffs filed on L/N (page and line deposition will occur later)  WV Rules of Evidence issues brought to Court's attention Discovery deadline Last day to supplement master exhibit lists, expert lists and lay witness lists
250 days (25)	§16.D.4.f.	Summary judgment motions due Motions in limine due
255 days (20)	§18.B.	Plaintiffs to endorse agreed dismissal order or file written objections. If no objection, defendant may submit to Court for entry
260 days (15)	§16.D.4.f. § 19.D.7.	Responses to summary judgment motions due Deposition designation for use at trial by defendants filed on L/N (page and line depositions will occur later) Final deadline for disclosing exhibits for use at trial
273 days (2)	§16.D.4.d.	Proposed jury instructions not based on WV law submitted in hard copy to Court
274 days (1)	§ 16.D.4.C.  § 16.D.4.a.	By 3:00 p.m., unsettled parties to submit list of contested motions in limine with Transaction Identification Number  Parties to submit voir dire questions not based on juror questionnaires, other than bias or juror qualification questions
275 days (0)		Jury selection and trial
276 days (+1)	§ 16.D.4.d.	All jury instructions and verdict forms to Court by 4:00 p.m.

48 Hour Rule - Plaintiffs and Defendants shall designate in writing the page(s) and line(s) of any deposition they intend to use at trial 2 business days (48 hours) prior to use at trial. § 19.D.7.

24 Hour Rule - Counter page and line designations shall be made in writing one business day (24 hours) prior to use at trial. § 19.D.7.

48 Hours - The parties are to exchange objections to exhibits no later than 48 hours before any scheduled document conference

Deadlines are approximate and may be adjusted slightly to reflect weekends, holidays, order of Court or agreement of counsel. In the event of any conflict between this Exhibit B and the agreed schedule for any trial group will be governed by the trial group schedule except as specifically provided within the Case Management Order..

APPENDIX D

IN RE: ASBESTOS PERSONAL INJURY LITIGATION  
CIVIL ACTION NO. 03-C-9000

PLAINTIFF'S FACT SHEET

Each plaintiff in asbestos personal injury litigation pending in the West Virginia Mass Litigation Panel who alleges exposure to asbestos (or is the representative of a person who is alleged to have been so exposed) must complete this Plaintiff's Fact Sheet, including all of the questions asked, the list of medical providers and other sources of information, the request for the production of documents and the request for authorizations. In completing this Fact Sheet, you are under oath and must provide information that is true and correct to the best of your knowledge.

INSTRUCTIONS

In completing this Fact Sheet, it is expected that you will fully respond to each question and will provide all of the information available to you that is sought by each question. The questions should be read broadly. If you do not know the answer to any question, please state that you do not know the answer. If any question is not applicable to you and your case, please state that it is not applicable. To the extent you cannot completely answer any question, please provide whatever information is available to you and your counsel and, as to any information sought by the question which you do not know, please identify what part of the question you cannot answer. You should consult with your attorney if you have any questions regarding the completion of these forms.

If you are completing these forms for someone who was allegedly exposed to asbestos who has died or cannot complete them him/herself, please answer as completely as you can for that person.

You may attach as many sheets of paper as necessary to answer these questions.

DEFINITIONS

In answering the questions set forth in this Fact Sheet, with the exception of the terms and phrases defined below, each term and phrase should be given their usual meaning.

The term "injury" shall mean any physical, emotional or psychological condition which is alleged was caused or may be caused in the future by your alleged exposure to asbestos.

I. CASE INFORMATION

A. Please provide the following information for the civil action which you filed:

1. Case Caption: \_\_\_\_\_

2. Civil Action No.: \_\_\_\_\_

3. Please state the name, address, telephone number, fax number and e-mail address of the principal attorney representing you.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Firm

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Telephone Number                      Fax Number

\_\_\_\_\_  
E-Mail Address

4. Social Security Number: \_\_\_\_\_

B. If you are completing this questionnaire in a representative capacity (e.g., on behalf of the estate of a deceased person or a minor), please complete the following:

1. \_\_\_\_\_  
Your Name

2. \_\_\_\_\_  
Street Address
3. \_\_\_\_\_  
City, State and Zip Code
4. In what capacity are you representing the individual:  
\_\_\_\_\_
5. If you were appointed by a court, state the:  

Court	Date of Appointment
-------	---------------------
6. Your relationship to deceased or represented person:  
\_\_\_\_\_
7. If you represent a decedent's estate, state the date of death of the decedent.  
\_\_\_\_\_

[If you are completing this questionnaire in a representative capacity, please respond to the remaining questions with respect to the person who was allegedly exposed to asbestos. Those questions using the term "You" refer to the person who was allegedly exposed to asbestos. If the individual is deceased, please respond as of the time immediately prior to his or her death unless a different time period is specified.]

- C.
1. If you are completing this Fact Sheet as the representative of a deceased person, what was the date of death?  
\_\_\_\_\_
  2. Was an autopsy performed?  
Yes \_\_\_\_\_ No \_\_\_\_\_

CL833462.1  
Revised: February 24, 2003

3. If yes, at which facility?

Name of Facility \_\_\_\_\_

Address \_\_\_\_\_

II. PERSONAL INFORMATION

A. Last Name: \_\_\_\_\_

First Name: \_\_\_\_\_

Middle Name or Initial: \_\_\_\_\_

B. Maiden or other names used or by which you have been known, including the dates you used each name: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. Address Information

1. Present Street Address:

Street Address City State Zip Code

2. List all other addresses where you have lived for the last thirty (30) years:

Street Address City State Zip Code Dates  
at address

Street Address City State Zip Code Dates  
at address

Street Address City State Zip Code Dates  
at address

Street Address      City      State      Zip Code      Dates  
at address

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

D. Employment

1.

Name of Current or Last Employer \_\_\_\_\_

Name of Current or Last Supervisor or Superior \_\_\_\_\_

Current or Last Employer Address \_\_\_\_\_

Current or Last Employer Telephone Number \_\_\_\_\_

Dates of Current or Last Employment \_\_\_\_\_

Current or Last Occupation \_\_\_\_\_

2. Have you been unemployed for health reasons for 30 consecutive days or more within the last fifteen (15) years?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

If so, please state the following for each period:

a. First and last date of period of unemployment: \_\_\_\_\_

b. Reason for unemployment: \_\_\_\_\_

c. With respect to any period of unemployment identified above, identify all unemployment benefits claimed and received for that period of unemployment: \_\_\_\_\_

\_\_\_\_\_  
[ATTACH ADDITIONAL SHEETS IF NECESSARY]

E. Social Security, Visa or Green Card Number: \_\_\_\_\_

F. Date of Birth: \_\_\_\_\_

G. Place of Birth: \_\_\_\_\_

H. Date of Death: \_\_\_\_\_

I. Cause of Death: \_\_\_\_\_

J. Are you a Citizen of the United States?

Yes \_\_\_\_\_ No \_\_\_\_\_

K. Sex: Male \_\_\_\_\_ Female \_\_\_\_\_

L. Have you ever served in any branch of the U. S. Military?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please state:

1. What branch and the dates of service: \_\_\_\_\_

2. Were you discharged for any reason relating to your health, physical or mental condition?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, state what that condition was: \_\_\_\_\_

M. Have you ever been rejected from military service for any reason relating to your health, physical or mental condition?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, state what that condition was: \_\_\_\_\_

N. Have you filed a Workers' Compensation claim within the past 15 years?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please state the following for each claim filed:

1. Year claim was filed: \_\_\_\_\_

2. Where claim was filed: \_\_\_\_\_

3. Claim/docket number, if applicable: \_\_\_\_\_

4. Nature of disability: \_\_\_\_\_

5. Period of disability: \_\_\_\_\_

6. Attorney, if any, who represented you (name, address and telephone number): \_\_\_\_\_

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

O. Have you filed a Social Security disability claim within the past 15 years?

CL833462.1

Revised: February 24, 2003

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please state the following for each claim filed:

1. Year claim was filed: \_\_\_\_\_
2. Where claim was filed: \_\_\_\_\_
3. Claim/docket number, if applicable: \_\_\_\_\_
4. Nature of disability: \_\_\_\_\_
5. Period of disability: \_\_\_\_\_
6. Attorney, if any, who represented you (name, address and telephone number): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

P. Have you ever filed a lawsuit or made a claim, other than in the present suit, relating to any physical, psychological or emotional injury?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please state the following for each claim filed:

1. Year claim was filed: \_\_\_\_\_
2. Where claim was filed: \_\_\_\_\_
3. Claim/docket number, if applicable: \_\_\_\_\_
4. Nature of disability: \_\_\_\_\_
5. Period of disability: \_\_\_\_\_

6. Attorney, if any, who represented you (name, address and telephone number): \_\_\_\_\_

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

Q. Have you been convicted of or pled guilty to a crime involving dishonesty or false statement (e.g., perjury) in the last 10 years?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so:

1. What was the offense? \_\_\_\_\_

2. What was the case number? \_\_\_\_\_

3. What was the date of conviction or plea? \_\_\_\_\_

4. In what court was the conviction or plea entered? \_\_\_\_\_

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

R. Education

Beginning with high school, complete the following information regarding educational institutions you have attended:

Name and Address of Educational Institution	Dates Attended	Degrees/Certifications Received

CL833462.1

Revised: February 24, 2003


[ATTACH ADDITIONAL SHEETS IF NECESSARY]

III. FAMILY INFORMATION

A. Are you currently married?

Yes \_\_\_\_\_ No \_\_\_\_\_

B. Date of marriage: \_\_\_\_\_

C. Has your spouse filed a loss of consortium claim in connection with this claim?

Yes \_\_\_\_\_ No \_\_\_\_\_

D. 1. Spouse's name: \_\_\_\_\_

2. Spouse's date of birth: \_\_\_\_\_

3. Spouse's occupation: \_\_\_\_\_

4. Spouse's current address: \_\_\_\_\_

E. Have you had any prior marriages?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, for each marriage, state the following:

Prior Spouse's Name: \_\_\_\_\_

Prior Spouse's Last Known address: \_\_\_\_\_

\_\_\_\_\_

Prior Spouse's Current Age: \_\_\_\_\_

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

F. Complete the following regarding your mother:

Mother's Name and current address

\_\_\_\_\_  
\_\_\_\_\_

Mother's Maiden Name: \_\_\_\_\_

Mother's Age (or Age at Death): \_\_\_\_\_

If Applicable, Cause of Death: \_\_\_\_\_

G. Complete the following regarding your father:

Father's Name and current address

\_\_\_\_\_  
\_\_\_\_\_

Father's Age (or Age at Death): \_\_\_\_\_

If Applicable, Cause of Death: \_\_\_\_\_

H. Complete the following regarding your siblings, if any:

I. Sibling's Name, address and Telephone Number:

\_\_\_\_\_  
\_\_\_\_\_

Sibling's Age (or Age at Death): \_\_\_\_\_

If Applicable, Cause of Death: \_\_\_\_\_

2. Sibling's Name, address and Telephone Number:

\_\_\_\_\_  
\_\_\_\_\_

Sibling's Age (or Age at Death): \_\_\_\_\_

If Applicable, Cause of Death: \_\_\_\_\_

3. Sibling's Name, address and Telephone Number:

\_\_\_\_\_  
\_\_\_\_\_

Sibling's Age (or Age at Death): \_\_\_\_\_

If Applicable, Cause of Death: \_\_\_\_\_

4. Sibling's Name, address and Telephone Number:

\_\_\_\_\_  
\_\_\_\_\_

Sibling's Age (or Age at Death): \_\_\_\_\_

If Applicable, Cause of Death: \_\_\_\_\_

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

I. Do you have any children (whether by a current or prior marriage or relationship?)

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, state the number of children: \_\_\_\_\_

If so, for each child, state the following:

1. Child's Name, address and Telephone Number:

CL833462.1

Revised: February 24, 2003

\_\_\_\_\_  
\_\_\_\_\_  
Child's Age (or Age at Death): \_\_\_\_\_

Does this child currently reside with you? Yes \_\_\_\_\_ No \_\_\_\_\_

2. Child's Name, address and Telephone Number:  
\_\_\_\_\_  
\_\_\_\_\_

Child's Age (or Age at Death): \_\_\_\_\_

Does this child currently reside with you? Yes \_\_\_\_\_ No \_\_\_\_\_

3. Child's Name, address and Telephone Number:  
\_\_\_\_\_  
\_\_\_\_\_

Child's Age (or Age at Death): \_\_\_\_\_

Does this child currently reside with you? Yes \_\_\_\_\_ No \_\_\_\_\_

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

J. Has any parent, grandparent, sibling or child been diagnosed with any cancer, lung disease, breathing difficulty or heart condition?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, identify each such person below and provide the information requested.

1. Name, Address and Telephone Number:

\_\_\_\_\_  
\_\_\_\_\_

Current Age (or Age at Death) \_\_\_\_\_

Diagnosis: \_\_\_\_\_

If Applicable, Cause of Death: \_\_\_\_\_

2. Name, Address and Telephone Number:

\_\_\_\_\_  
\_\_\_\_\_

Current Age (or Age at Death) \_\_\_\_\_

Diagnosis: \_\_\_\_\_

If Applicable, Cause of Death: \_\_\_\_\_

3. Name, Address and Telephone Number:

\_\_\_\_\_  
\_\_\_\_\_

Current Age (or Age at Death) \_\_\_\_\_

Diagnosis: \_\_\_\_\_

If Applicable, Cause of Death: \_\_\_\_\_





[ATTACH ADDITIONAL SHEETS IF NECESSARY]

V. MEDICAL INFORMATION

A. Describe each asbestos-related illness, disease or condition which you have:

---

---

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---

---

B. 1. Have you had discussions with any health care provider about whether your illness, disease or condition is related to asbestos exposure?

Yes \_\_\_\_\_ No \_\_\_\_\_ I do not recall \_\_\_\_\_

2. If yes, check one of the following:

a. I was told my condition is related to asbestos exposure: \_\_\_\_\_

b. I was told my condition is not related to asbestos exposure: \_\_\_\_\_

c. I was told my condition may be related to asbestos exposure: \_\_\_\_\_

d. I was told by the health care provider that he/she does not know whether my condition is related to asbestos exposure: \_\_\_\_\_

e. I do not recall what I was told: \_\_\_\_\_

If you feel you need to explain the above response, please do so below:

---

---

3. Identify the health care provider(s) with whom you have had these discussions:

Name

Address

Telephone Number

Name

Address

Telephone Number

Name

Address

Telephone Number

- C. 1. Have you received treatment of any kind for any asbestos-related illness, disease or condition?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, identify the health care provider(s) and/or health care facility [e.g., hospital or clinic] from whom and where such treatments have been received:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

**VI. SMOKING HISTORY**

A. Please answer the following:

1. Have you ever smoked cigarettes? Yes \_\_\_\_ No \_\_\_\_
2. If yes, year began \_\_\_\_ and year ended \_\_\_\_.
3. Average pack(s) per day?
4. List the brands of cigarettes you smoked (if you recall):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**VII. ALCOHOL CONSUMPTION HISTORY**

A. Please answer the following:

1. Have you ever consumed alcohol (*i.e.*, beer, wine, whisky, etc.)?  
Yes \_\_\_\_\_ No \_\_\_\_\_
2. If yes, year began \_\_\_\_\_ and year ended \_\_\_\_\_.
3. Average drinks per day? (If there is a distinction for periods of life explain: *e.g.*, between the ages of 20 and 30, 4 drinks per day, but now 2 drinks per day).
4. Have you ever been treated for alcoholism? Yes \_\_\_\_\_ No \_\_\_\_\_

**VIII. LIST OF MEDICAL PROVIDERS AND OTHER SOURCES OF INFORMATION**

List the name and address of each of the following:

A. Your current family physician:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Since When

B. Each health care provider who has seen or treated you in the past fifteen (15) years:

1. \_\_\_\_\_  
Name

CL833462.1  
Revised: February 24, 2003

Specialty \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

2.

Name \_\_\_\_\_

Specialty \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

3.

Name \_\_\_\_\_

Specialty \_\_\_\_\_

Street Address \_\_\_\_\_

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

4.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Specialty

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

C. Each hospital where you have received inpatient treatment during the past fifteen (15) years:

1.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Specialty

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

2.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Specialty

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

3.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Specialty

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

- D. Each hospital or health care facility where you have received outpatient treatment (including treatment in an emergency room) during the past fifteen (15) years:

1.

\_\_\_\_\_  
Name

Specialty

Street Address

City, State, Zip Code

Telephone Number

2.

Name

Specialty

Street Address

City, State, Zip Code

Telephone Number

3.

Name

Specialty

Street Address

City, State, Zip Code

\_\_\_\_\_  
Telephone Number

4.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Specialty

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

5.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Specialty

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

E. To the best of your knowledge, list each pharmacy or drugstore where you have had prescriptions filled during the past ten (10) years:

I.

\_\_\_\_\_  
Name

Street Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

2.

Name \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

3.

Name \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

4.

Name \_\_\_\_\_

Street Address \_\_\_\_\_

CL833462.1

Revised: February 24, 2003

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

5.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

F. If you have submitted a claim for Social Security disability benefits within the past fifteen (15) years, state the name and address of the office which is most likely to have records concerning each claim filed.

1.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

2.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

- G. If you have submitted a claim for Workers' Compensation within the past fifteen (15) years, state the name and address of the office which is most likely to have records concerning each claim.

1.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

If you were represented by counsel please provide:

\_\_\_\_\_  
Attorney's Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

[ATTACH ADDITIONAL SHEETS IF NECESSARY]

H. Have you ever made a claim to, or sought coverage from, any insurance company (e.g., private personal health insurance, employer provided health insurance, group or family health insurance, parents' health insurance) for any of the following conditions:

Condition	Yes	No	If yes, the date that the claim was made	If yes, the name of the insurance company to which the claim was made
Shortness of breath				
Asthma				
Emphysema				
Cough				
Fibrosis				
Pneumoconiosis				
Black lung				
Chronic Obstructive Lung Disease (COPD)				
Restrictive Airways Impairment				
Tuberculosis				
Pulmonary/lung disorders				
Angina				
Heart disease				
Myocardial infarction (heart attack)				

Congestive heart failure (CHF)				
Fractured ribs				
Sternum or chest area blunt trauma				
Pulmonary edema				
Heart by-pass surgery				
Heart transplant				
Arteriosclerosis (hardening of the arteries)				
Polyps in the colon				
Cancer				
Leukemia				
Lymphoma/Hodgkin's disease				
Liver disease				
Jaundice				
Obesity				
Hypertension (high blood pressure)				
Gastrointestinal Disease				
Gastrointestinal Cancer				
Stomach Cancer				

CL833462.1  
Revised: February 24, 2003

Laryngeal Cancer				
Esophageal Cancer				
Oral, Head & Neck Cancer				
All Other Cancers				

DECLARATION

I declare that all the information provided in this Fact Sheet is true and correct to the best of my knowledge, information and belief at this time. If I recall or discovery additional information, I will promptly provide the information to supplement or correct these responses.

\_\_\_\_\_

Date \_\_\_\_\_

APPENDIX E

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: ASBESTOS PERSONAL  
INJURY LITIGATION  
MASS LITIGATION PANEL

CIVIL ACTION NO.: \_\_\_\_\_  
DISCOVERY GROUP: \_\_\_\_\_

WITNESS DISCLOSURE

(To be produced to defense counsel at least 7 days prior to witness' deposition)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Will testify at: \_\_\_\_\_ o'clock on \_\_\_\_\_ (date) at \_\_\_\_\_ (location) \_\_\_\_\_.

Is witness represented by attorneys in asbestos litigation and/or workers' compensation?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, name of firm or attorney:

Has witness testified previously in asbestos litigation?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, provide the dates of testimony (exact or approximate) and court reporter or case, if known. (e.g., June 1995, Jackson & Associates or June 1995 for the Adam Smith case in Kanawha County)

Witness occupation or trade and the years. (If Union member, identify the union local or primary place of employment.) (e.g., Insulator Local 80, 1955-1985 or Operator, Union Carbide, Institute, WV, 1955-1985)

**This witness' testimony will apply to the following cases:**

**This witness' testimony will apply to the following premises:**

**This witness' testimony, either by direct testimony or in conjunction with other evidence, will also apply to the following defendants:**

APPENDIX F

AUTHORIZATION FOR  
EMPLOYMENT INFORMATION

TO: EMPLOYER

RE: EMPLOYEE NAME

This is to authorize the above-referenced employer to furnish to the law firm of \_\_\_\_\_, or any representatives thereof, any and all employment personnel records which said employer may have pertaining to \_\_\_\_\_.

You are authorized to accept a copy of this authorization in lieu of the original.

\_\_\_\_\_  
Employee Name

Sworn and Subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

MEDICAL AUTHORIZATION

TO WHOM IT MAY CONCERN:

This document authorizes any physician, hospital, medical attendant, governmental or private agency, including the Workmen's Compensation Commission and Social Security Administration, or any other person or entity, and each of them, to furnish to the law firm of \_\_\_\_\_, or any representative or designee thereof, or to the bearer of this document, any and all documents, medical records, medical opinions if in writing, original x-rays, papers, notes and histories, pathology, tissue samples, cytology, blocks, slides, or other pathology specimens, or any other records or papers concerning any past medical history and/or treatment, examinations, periods of hospitalizations or confinement, diagnoses, or any other information pertaining to and concerning the physical or mental condition of, including any and all papers concerning any claim or claims which have been filed by me against any employer or employers before the Workmen's Compensation Commission, or any commission of any other state.

The authorization permits only the copying of any and all papers, records, etc., with the exception of x-rays and tissue samples, which must be produced in original form. Discussions with healthcare providers must be limited to the obtaining of materials and the scheduling of depositions, hearings, and trials.

This authorization pertains only to documents, records, tissue samples, and x-rays concerning my care and treatment.

Original x-rays are required, because of the nature of the claim I am making. X-ray copies cannot be interpreted for pneumoconiosis, and therefore copies are not effective. Copies may be maintained by the hospital or other organization if deemed necessary, but the original x-rays must be turned over when a request for them is accompanied by this authorization.

A photocopy of this authorization shall have the same force and effect as the original, and you may rely on it as if it were.

This authorization is continuing in nature and maintains full force and effect for use in obtaining materials and records dated both before and after the date of this document.

Date: \_\_\_\_\_, 2003.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Social Security Number

### Tax Information Authorization

- ▶ Do not sign this form unless all applicable lines have been completed.
- ▶ Do not use this form to request a copy or transcript of your tax return. Instead, use Form 4506 or Form 4506-T.

OMB No. 1545-1165  
**For IRS Use Only**  
 Received by: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Telephone ( ) \_\_\_\_\_  
 Function: \_\_\_\_\_  
 Date: / /

**1 Taxpayer information.** Taxpayer(s) must sign and date this form on line 7.

Taxpayer name(s) and address (type or print)	Social security number(s) _____ _____	Employer identification number _____ _____
	Daytime telephone number ( ) _____	Plan number (if applicable) _____

**2 Appointee.** If you wish to name more than one appointee, attach a list to this form.

Name and address	CAF No. .... Telephone No. .... Fax No. .... Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
------------------	--

**3 Tax matters.** The appointee is authorized to inspect and/or receive confidential tax information in any office of the IRS for the tax matters listed on this line. Do not use Form 8821 to request copies of tax returns.

(a) Type of Tax (Income, Employment, Excise, etc.) or Civil Penalty	(b) Tax Form Number (1040, 941, 720, etc.)	(c) Year(s) or Period(s) (see the instructions for line 3)	(d) Specific Tax Matters (see instr.)

**4 Specific use not recorded on Centralized Authorization File (CAF).** If the tax information authorization is for a specific use not recorded on CAF, check this box. See the instructions on page 4. If you check this box, skip lines 5 and 6. ▶

**5 Disclosure of tax information** (you must check a box on line 5a or 5b unless the box on line 4 is checked):

a If you want copies of tax information, notices, and other written communications sent to the appointee on an ongoing basis, check this box . . . . . ▶

b If you do not want any copies of notices or communications sent to your appointee, check this box . . . . . ▶

**6 Retention/revocation of tax information authorizations.** This tax information authorization automatically revokes all prior authorizations for the same tax matters you listed on line 3 above unless you checked the box on line 4. If you do not want to revoke a prior tax information authorization, you must attach a copy of any authorizations you want to remain in effect and check this box . . . . . ▶

To revoke this tax information authorization, see the instructions on page 4.

**7 Signature of taxpayer(s).** If a tax matter applies to a joint return, either husband or wife must sign. If signed by a corporate officer, partner, guardian, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute this form with respect to the tax matters/periods on line 3 above.

▶ IF NOT SIGNED AND DATED, THIS TAX INFORMATION AUTHORIZATION WILL BE RETURNED.

▶ DO NOT SIGN THIS FORM IF IT IS BLANK OR INCOMPLETE.

\_\_\_\_\_  
 Signature Date

\_\_\_\_\_  
 Signature Date

\_\_\_\_\_  
 Print Name Title (if applicable)

\_\_\_\_\_  
 Print Name Title (if applicable)

PIN number for electronic signature

PIN number for electronic signature

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

Form 8821 authorizes any individual, corporation, firm, organization, or partnership you designate to inspect and/or receive your confidential information in any office of the IRS for the type of tax and the years or periods you list on Form 8821. You may file your own tax information authorization without using Form 8821, but it must include all the information that is requested on Form 8821.

Form 8821 does not authorize your appointee to advocate your position with respect to the federal tax laws; to execute waivers, consents, or closing agreements; or to otherwise represent you before the IRS. If you want to authorize an individual to represent you, use Form 2848, Power of Attorney and Declaration of Representative.

Use Form 4506, Request for Copy of Tax Return, to get a copy of your tax return.

Use Form 4506-T, Request for Transcript of Tax Return, to order: (a) transcript of tax account information and (b) Form W-2 and Form 1099 series information.

Use Form 56, Notice Concerning Fiduciary Relationship, to notify the IRS of the existence of a fiduciary relationship. A fiduciary (trustee, executor, administrator, receiver, or guardian) stands in the position of a taxpayer and acts as the taxpayer. Therefore, a fiduciary does not act as an appointee and should not file Form 8821. If a fiduciary wishes to authorize an appointee to inspect and/or receive confidential tax information on behalf of the fiduciary, Form 8821 must be filed and signed by the fiduciary acting in the position of the taxpayer.

### When To File

Form 8821 must be received by the IRS within 60 days of the date it was signed and dated by the taxpayer.

### Where To File Chart

IF you live in . . .	THEN use this address . . .	Fax Number*
Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, or West Virginia	Internal Revenue Service Memphis Accounts Management Center PO Box 268, Stop 8423 Memphis, TN 38101-0268	901-546-4115
Alaska, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, or Wyoming	Internal Revenue Service 1973 N. Rulon White Blvd. MS 6737 Ogden, UT 84404	801-620-4249
All APO and FPO addresses, American Samoa, nonpermanent residents of Guam or the Virgin Islands**, Puerto Rico (or if excluding income under section 933), a foreign country, U.S. citizens and those filing Form 2555, 2555-EZ, or 4563.	Internal Revenue Service International CAF DP: SW-311 11601 Roosevelt Blvd. Philadelphia, PA 19255	215-516-1017

\*These numbers may change without notice.

\*\*Permanent residents of Guam should use Department of Taxation, Government of Guam, P.O. Box 23607, GMF, GU 96921; permanent residents of the Virgin Islands should use: V.I. Bureau of Internal Revenue, 9601 Estate Thomas Charlotte Amalie, St. Thomas, V.I. 00802.

## Where To File

Generally, mail or fax Form 8821 directly to the IRS. See the *Where To File Chart* on page 2. Exceptions are listed below.

If Form 8821 is for a specific tax matter, mail or fax it to the office handling that matter. For more information, see the instructions for line 4.

Your representative may be able to file Form 8821 electronically with the IRS from the IRS website. For more information, go to [www.irs.gov](http://www.irs.gov). Under the *Tax Professionals* tab, click on *e-services-Online Tools for Tax Professionals*. If you complete Form 8821 for electronic signature authorization, do not file a Form 8821 with the IRS. Instead, give it to your appointee, who will retain the document.

## Revocation of an Existing Tax Information Authorization

If you want to revoke an existing tax information authorization and do not want to name a new appointee, send a copy of the previously executed tax information authorization to the IRS, using the *Where To File Chart* on page 2. The copy of the tax information authorization must have a current signature and date of the taxpayer under the original signature on line 7. Write "REVOKE" across the top of Form 8821. If you do not have a copy of the tax information authorization you want to revoke, send a statement to the IRS. The statement of revocation or withdrawal must indicate that the authority of the appointee is revoked, list the tax matters and periods, and must be signed and dated by the taxpayer or representative. If the taxpayer is revoking, list the name and address of each recognized appointee whose authority is revoked. When the taxpayer is completely revoking authority, the form should state "remove all years/periods" instead of listing the specific tax matters, years, or periods. If the appointee is withdrawing, list the name, TIN, and address (if known) of the taxpayer.

To revoke a specific use tax information authorization, send the tax information authorization or statement of revocation to the IRS office handling your case, using the above instructions.

## Taxpayer Identification Numbers (TINs)

TINs are used to identify taxpayer information with corresponding tax returns. It is important that you furnish correct names, social security numbers (SSNs), individual taxpayer identification numbers (ITINs), or employer identification numbers (EINs) so that the IRS can respond to your request.

## Partnership Items

Sections 6221-6234 authorize a Tax Matters Partner to perform certain acts on behalf of an affected partnership. Rules governing the use of Form 8821 do not replace any provisions of these sections.

## Representative Address Change

If the representative's address has changed, a new Form 8821 is not required. The representative can send a written notification that includes the new information and their signature to the location where the Form 8821 was filed.

## Specific Instructions

### Line 1. Taxpayer Information

**Individuals.** Enter your name, TIN, and your street address in the space provided. Do not enter your appointee's address or post office box. If a joint return is used, also enter your spouse's name and TIN. Also enter your EIN if applicable.

**Corporations, partnerships, or associations.** Enter the name, EIN, and business address.

**Employee plan or exempt organization.** Enter the name, address, and EIN of the plan sponsor or exempt organization, and the plan name and three-digit plan number.

**Trust.** Enter the name, title, and address of the trustee, and the name and EIN of the trust.

**Estate.** Enter the name, title, and address of the decedent's executor/personal representative, and the name and identification number of the estate. The identification number for an estate includes both the EIN, if the estate has one, and the decedent's TIN.

### Line 2. Appointee

Enter your appointee's full name. Use the identical full name on all submissions and correspondence. Enter the nine-digit CAF number for each appointee. If an appointee has a CAF number for any previously filed Form 8821 or power of attorney (Form 2848), use that number. If a CAF number has not been assigned, enter "NONE," and the IRS will issue one directly to your appointee. The IRS does not assign CAF numbers to requests for employee plans and exempt organizations.

If you want to name more than one appointee, indicate so on this line and attach a list of appointees to Form 8821.

Check the appropriate box to indicate if either the address, telephone number, or fax number is new since a CAF number was assigned.

### Line 3. Tax Matters

Enter the type of tax, the tax form number, the years or periods, and the specific tax matter. Enter "Not applicable," in any of the columns that do not apply.

For example, you may list "Income, 1040" for calendar year "2006" and "Excise, 720" for "2006" (this covers all quarters in 2006). For multiple years or a series of inclusive periods, including quarterly periods, you may list 2004 through (thru or a hyphen) 2006. For example, "2004 thru 2006" or "2nd 2005-3rd 2006." For fiscal years, enter the ending year and month, using the YYYYMM format. Do not use a general reference such as "All years," "All periods," or "All taxes." Any tax information authorization with a general reference will be returned.

You may list the current year or period and any tax years or periods that have already ended as of the date you sign the tax information authorization. However, you may include on a tax information authorization only future tax periods that end no later than 3 years after the date the tax information authorization is received by the IRS. The 3 future periods are determined starting after December 31 of the year the tax information authorization is received by the IRS. You must enter the type of tax, the tax form number, and the future year(s) or period(s). If the matter relates to estate tax, enter the date of the decedent's death instead of the year or period.

In **column (d)**, enter any specific information you want the IRS to provide. Examples of column (d) information are: lien information, a balance due amount, a specific tax schedule, or a tax liability.

For requests regarding Form 8802, Application for United States Residency Certification, enter "Form 8802" in column (d) and check the specific use box on line 4. Also, enter the appointee's information as instructed on Form 8802.

**Note.** If the taxpayer is subject to penalties related to an individual retirement account (IRA) account (for example, a penalty for excess contributions) enter, "IRA civil penalty" on line 3, column a.

#### Line 4. Specific Use Not Recorded on CAF

Generally, the IRS records all tax information authorizations on the CAF system. However, authorizations relating to a specific issue are not recorded.

Check the box on line 4 if Form 8821 is filed for any of the following reasons: (a) requests to disclose information to loan companies or educational institutions, (b) requests to disclose information to federal or state agency investigators for background checks, (c) application for EIN, or (d) claims filed on Form 843, Claim for Refund and Request for Abatement. If you check the box on line 4, your appointee should mail or fax Form 8821 to the IRS office handling the matter. Otherwise, your appointee should bring a copy of Form 8821 to each appointment to inspect or receive information. A specific-use tax information authorization will not revoke any prior tax information authorizations.

#### Line 6. Retention/Revocation of Tax Information Authorizations

Check the box on this line and attach a copy of the tax information authorization you do not want to revoke. The filing of Form 8821 will not revoke any Form 2848 that is in effect.

#### Line 7. Signature of Taxpayer(s)

**Individuals.** You must sign and date the authorization. Either husband or wife must sign if Form 8821 applies to a joint return.

**Corporations.** Generally, Form 8821 can be signed by: (a) an officer having legal authority to bind the corporation, (b) any person designated by the board of directors or other governing body, (c) any officer or employee on written request by any principal officer and attested to by the secretary or other officer, and (d) any other person authorized to access information under section 6103(e).

**Partnerships.** Generally, Form 8821 can be signed by any person who was a member of the partnership during any part of the tax period covered by Form 8821. See *Partnership Items* on page 3.

**All others.** See section 6103(e) if the taxpayer has died, is insolvent, is a dissolved corporation, or if a trustee, guardian, executor, receiver, or administrator is acting for the taxpayer.

#### Privacy Act and Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Form 8821 is provided by the IRS for your convenience and its use is voluntary. If you designate an appointee to inspect and/or receive confidential tax information, you are required by section 6103(c) to provide the information requested on Form 8821. Under section 6109, you must disclose your social security number (SSN), employer identification number (EIN), or individual taxpayer identification number (ITIN). If you do not provide all the information requested on this form, we may not be able to honor the authorization.

The IRS may provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 6 min.; **Learning about the law or the form**, 12 min.; **Preparing the form**, 24 min.; **Copying and sending the form to the IRS**, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 8821 simpler, we would be happy to hear from you. You can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not send Form 8821 to this address.** Instead, see the *Where To File Chart* on page 2.

## REQUEST PERTAINING TO MILITARY RECORDS

\* Requests from veterans or deceased veteran's next-of-kin may be submitted online by using eVetRecs at <http://www.archives.gov/veterans/evetrecs/> \*

*(To ensure the best possible service, please thoroughly review the accompanying instructions before filling out this form. Please print clearly or type.)*

### SECTION I - INFORMATION NEEDED TO LOCATE RECORDS (Furnish as much as possible.)

1. NAME USED DURING SERVICE (last, first, and middle)	2. SOCIAL SECURITY NO.	3. DATE OF BIRTH	4. PLACE OF BIRTH			
5. SERVICE, PAST AND PRESENT <span style="float: right;">(For an effective records search, it is important that all service be shown below.)</span>						
	BRANCH OF SERVICE	DATE ENTERED	DATE RELEASED	OFFICER	ENLISTED	SERVICE NUMBER (If unknown, write "unknown")
a. ACTIVE COMPONENT						
b. RESERVE COMPONENT						
c. NATIONAL GUARD						
6. IS THIS PERSON DECEASED? If "YES" enter the date of death. <input type="checkbox"/> NO <input type="checkbox"/> YES _____			7. IS (WAS) THIS PERSON RETIRED FROM MILITARY SERVICE? <input type="checkbox"/> NO <input type="checkbox"/> YES			

### SECTION II - INFORMATION AND/OR DOCUMENTS REQUESTED

**1. CHECK THE ITEM(S) YOU WOULD LIKE TO REQUEST A COPY OF:**

- DD Form 214 or equivalent.** This form contains information normally needed to verify military service. A copy may be sent to the veteran, the deceased veteran's next of kin, or other persons or organizations if authorized in Section III, below. NOTE: If more than one period of service was performed, even in the same branch, there may be more than one DD214. Check the appropriate box below to specify a deleted or undeleted copy. When was the DD Form(s) 214 issued? YEAR(S):
  - UNDELETED:** Ordinarily required to determine eligibility for benefits. Sensitive items, such as, the character of separation, authority for separation, reason for separation, reenlistment eligibility code, separation (SPD/SPN) code, and dates of time lost are usually shown.
  - DELETED:** The following items are deleted: authority for separation, reason for separation, reenlistment eligibility code, separation (SPD/SPN) code, and for separations after June 30, 1979, character of separation and dates of time lost.
- All Documents in Official Military Personnel File (OMPF)**
- Medical Records** (Includes Service Treatment Records (outpatient), inpatient and dental records.) If hospitalized, provide facility name and date for each admission:
- Other (Specify):** \_\_\_\_\_

**2. PURPOSE:** (An explanation of the purpose of the request is strictly voluntary; however, such information may help to provide the best possible response and may result in a faster reply. Information provided will in no way be used to make a decision to deny the request.) Check appropriate box:

- Benefits   
  Employment   
  VA Loan Programs   
  Medical   
  Medals/Awards   
  Genealogy   
  Correction   
  Personal  
 Other, explain: \_\_\_\_\_

### SECTION III - RETURN ADDRESS AND SIGNATURE

**1. REQUESTER IS:** (Signature Required in # 3 below of veteran, next of kin, legal guardian, authorized government agent or "other" authorized representative. If "other" authorized representative, provide copy of authorization letter.)

- |  |  |
|--|--|
| <input type="checkbox"/> Military service member or veteran identified in Section I, above | <input type="checkbox"/> Legal guardian (Must submit copy of court appointment.) |
| <input type="checkbox"/> Next of kin of deceased veteran (Must provide proof of death).    | <input type="checkbox"/> Other (specify) _____                                   |

Show relationship: \_\_\_\_\_  
 (See item 2a on accompanying instructions.)

**2. SEND INFORMATION/DOCUMENTS TO:**  
 (Please print or type. See item 4 on accompanying instructions.)

**3. AUTHORIZATION SIGNATURE REQUIRED** (See items 2a or 3a on accompanying instructions.) I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the information in this Section III is true and correct.

Name \_\_\_\_\_

Street \_\_\_\_\_ Apt. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Signature Required - Do not print

( )

Date of this request \_\_\_\_\_ Daytime phone \_\_\_\_\_

Email address \_\_\_\_\_

\*This form is available at <http://www.archives.gov/research/order/standard-form-180.pdf> on the National Archives and Records Administration (NARA) web site.\*

## LOCATION OF MILITARY RECORDS

The various categories of military service records are described in the chart below. For each category there is a code number which indicates the address at the bottom of the page to which this request should be sent. Please refer to the Instruction and Information Sheet accompanying this form as needed.

BRANCH	CURRENT STATUS OF SERVICE MEMBER	ADDRESS CODE	
		Personnel Record	Service Treatment Record
AIR FORCE	Discharged, deceased, or retired before 5/1/1994	14	14
	Discharged, deceased, or retired 5/1/1994 – 9/30/2004	14	11
	Discharged, deceased, or retired on or after 10/1/2004	1	11
	Active (including National Guard on active duty in the Air Force), TDRL, or general officers retired with pay	1	
	Reserve, retired reserve in nonpay status, current National Guard officers not on active duty in the Air Force, or National Guard released from active duty in the Air Force	2	
	Current National Guard enlisted not on active duty in the Air Force	13	
COAST GUARD	Discharge, deceased, or retired before 1/1/1898	6	
	Discharged, deceased, or retired 1/1/1898 – 3/31/1998	14	14
	Discharged, deceased, or retired on or after 4/1/1998	14	11
	Active, reserve, or TDRL	3	
MARINE CORPS	Discharged, deceased, or retired before 1/1/1905	6	
	Discharged, deceased, or retired 1/1/1905 – 4/30/1994	14	14
	Discharged, deceased, or retired 5/1/1994 – 12/31/1998	14	11
	Discharged, deceased, or retired on or after 1/1/1999	4	11
	Individual Ready Reserve	5	
	Active, Selected Marine Corps Reserve, TDRL	4	
ARMY	Discharged, deceased, or retired before 11/1/1912 (enlisted) or before 7/1/1917 (officer)	6	
	Discharged, deceased, or retired 11/1/1912 – 10/15/1992 (enlisted) or 7/1/1917 – 10/15/1992 (officer)	14	14
	Discharged, deceased, or retired after 10/16/1992	14	11
	Reserve; or active duty records of current National Guard members who performed service in the U.S. Army before 7/1/1972	7	
	Active enlisted (including National Guard on active duty in the U.S. Army) or TDRL enlisted	9	
	Active officers (including National Guard on active duty in the U.S. Army) or TDRL officers	8	
	Current National Guard enlisted and officer not on active duty in Army (including records of Army active duty performed after 6/30/1972)	13	
NAVY	Discharged, deceased, or retired before 1/1/1886 (enlisted) or before 1/1/1903 (officer)	6	
	Discharged, deceased, or retired 1/1/1886 – 1/30/1994 (enlisted) or 1/1/1903 – 1/30/1994 (officer)	14	14
	Discharged, deceased, or retired 1/31/1994 – 12/31/1994	14	11
	Discharged, deceased, or retired on or after 1/1/1995	10	11
	Active, reserve, or TDRL	10	
PHS	Public Health Service - Commissioned Corps officers only	12	

### ADDRESS LIST OF CUSTODIANS (BY CODE NUMBERS SHOWN ABOVE) – Where to write/send this form

1	Air Force Personnel Center HQ AFPC/DPSSRP 550 C Street West, Suite 19 Randolph AFB, TX 78150-4721	6	National Archives & Records Administration Old Military and Civil Records (NWCTB-Military) Textual Services Division 700 Pennsylvania Ave., N.W. Washington, DC 20408-0001	11	Department of Veterans Affairs Records Management Center P.O. Box 5020 St. Louis, MO 63115-5020
2	Air Reserve Personnel Center /DSMR HQ ARPC/DPSSA/B 6760 E. Irvington Place, Suite 4600 Denver, CO 80280-4600	7	U.S. Army Human Resources Command ATTN: AHRC-PAV-V 1 Reserve Way St. Louis, MO 63132-5200	12	Division of Commissioned Corps Officer Support ATTN: Records Officer 1101 Wootton Parkway, Plaza Level, Suite 100 Rockville, MD 20852
3	Commander, CGPC-adm-3 USCG Personnel Command 4200 Wilson Blvd., Suite 1100 Arlington, VA 22203-1804	8	U.S. Army Human Resources Command ATTN: AHRC-MSR 200 Stovall Street Alexandria, VA 22332-0444	13	The Adjutant General (of the appropriate state, DC, or Puerto Rico)
4	Headquarters U.S. Marine Corps Personnel Management Support Branch (MMSB-10) 2008 Elliot Road Quantico, VA 22134-5030	9	Commander USAEREC ATTN: PCRE-F 8899 E. 56th St. Indianapolis, IN 46249-5301	14	National Personnel Records Center (Military Personnel Records) 9700 Page Ave. St. Louis, MO 63132-5100  <i>http://www.archives.gov/veterans/evetrecs/</i>
5	Marine Corps Mobilization Command 15303 Andrews Road Kansas City, MO 64147-1207	10	Navy Personnel Command (PERS-312E) 5720 Integrity Drive Millington, TN 38055-3120		

## INSTRUCTION AND INFORMATION SHEET FOR SF 180, REQUEST PERTAINING TO MILITARY RECORDS

**1. General Information.** The Standard Form 180, Request Pertaining to Military Records (SF180) is used to request information from military records. Certain identifying information is necessary to determine the location of an individual's record of military service. Please try to answer each item on the SF 180. If you do not have and cannot obtain the information for an item, show "NA," meaning the information is "not available." Include as much of the requested information as you can. To determine where to mail this request see Page 2 of the SF180 for record locations and facility addresses.

Online requests may be submitted to the National Personnel Records Center (NPRC) by a veteran or deceased veteran's next of kin using eVetRecs at <http://www.archives.gov/veterans/evetrecs/>.

**2. Personnel records and Service Treatment Records (STR).** Personnel records of military members who were discharged, retired, or died in service **less than 62 years** ago and STR's are in the legal custody of the military service department and are administered in accordance with rules issued by the Department of Defense and the Department of Homeland Security (DHS, Coast Guard). STR's of persons on active duty are generally kept at the local servicing clinic, and usually are available from the Department of Veterans Affairs approximately 40 days after the last day of active duty. (See item 3, Archival Records, if the military member was discharged, retired or died in service over 62 years ago.)

a. Release of information: Release of information is subject to restrictions imposed by the military services consistent with Department of Defense regulations and the provisions of the Freedom of Information Act (FOIA) and the Privacy Act of 1974. The service member (either past or present) or the member's legal guardian has access to almost any information contained in that member's own record. An authorization signature, of the service member or the member's legal guardian, is needed in Section III of the SF180. Others requesting information from military personnel records and/or STR's must have the release authorization in Section III of the SF 180 signed by the member or legal guardian. If the appropriate signature cannot be obtained, only limited types of information can be provided. If the former member is deceased, surviving next of kin may, under certain circumstances, be entitled to greater access to a deceased veteran's records than a member of the general public. The next of kin may be any of the following: unremarried surviving spouse, father, mother, son, daughter, sister, or brother. Requesters must provide proof of death, such as a copy of a death certificate, letter from funeral home or obituary.

b. Fees for records: There is no charge for most services provided to service members or next of kin of deceased veterans. A nominal fee is charged for certain types of service. In most instances service fees cannot be determined in advance. If your request involves a service fee, you will be notified as soon as that determination is made.

**3. Archival Records.** Personnel records of military members who were discharged, retired, or died in service **62 or more years** ago have been transferred to the legal custody of NARA and are referred to as "archival" records.

a. Release of Information: Archival records are open to the public. The Privacy Act of 1974 does not apply to archival records, therefore, written authorization from the veteran or next of kin is not required. However, in order to protect the privacy of the veteran, his/her family, and third parties named in the records, the personal privacy exemption of the Freedom of Information Act (5 U.S.C. 552 (b) (6)) may still apply and preclude the release of some information.

b. Fees for Archival Records: Access to archival records is granted by offering copies of the records for a fee (44 U.S.C. 2116 (c)). You will be notified if there is a charge for photocopies of documents contained in the record you are requesting.

**4. Where reply may be sent.** The reply may be sent to the service member or any other address designated by the service member or other authorized requester.

**5. Definitions and abbreviations.** DISCHARGED -- the individual has no current military status; SERVICE TREATMENT RECORD (STR) -- The chronology of medical, mental health and dental care received by service members during the course of their military career (does not include records of treatment while hospitalized); TDRL -- Temporary Disability Retired List.

**6. Service completed before World War I.** National Archives Trust Fund (NATF) forms must be used to request these records. Obtain the forms by e-mail from [inquire@nara.gov](mailto:inquire@nara.gov) or write to the Code 6 address on page 2 of the SF 180.

### PRIVACY ACT OF 1974 COMPLIANCE INFORMATION

The following information is provided in accordance with 5 U.S.C. 552a(e)(3) and applies to this form. Authority for collection of the information is 44 U.S.C. 2907, 3101, and 3103, and Public Law 104-134 (April 26, 1996), as amended in title 31, section 7701. Disclosure of the information is voluntary. If the requested information is not provided, it may delay servicing your inquiry because the facility servicing the service member's record may not have all of the information needed to locate it. The purpose of the information on this form is to assist the facility servicing the records (see the address list) in locating the correct military service record(s) or information to answer your inquiry. This form is then retained as a record of disclosure. The form may also be disclosed to Department of Defense components, the Department of Veterans Affairs, the Department of Homeland Security (DHS, U.S. Coast Guard), or the National Archives and Records Administration when the original custodian of the military health and personnel records transfers all or part of those records to that agency. If the service member was a member of the National Guard, the form may also be disclosed to the Adjutant General of the appropriate state, District of Columbia, or Puerto Rico, where he or she served.

### PAPERWORK REDUCTION ACT PUBLIC BURDEN STATEMENT

Public burden reporting for this collection of information is estimated to be five minutes per request, including time for reviewing instructions and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to National Archives and Records Administration (NHP), 8601 Adelphi Road, College Park, MD 20740-6001. DO NOT SEND COMPLETED FORMS TO THIS ADDRESS. SEND COMPLETED FORMS AS INDICATED IN THE ADDRESS LIST ON PAGE 2 OF THE SF 180.



**Department of Veterans Affairs**

**REQUEST FOR AND AUTHORIZATION TO RELEASE MEDICAL RECORDS OR HEALTH INFORMATION**

**Privacy Act and Paperwork Reduction Act Information:** The execution of this form does not authorize the release of information other than that specifically described below. The information requested on this form is solicited under Title 38, U.S.C. The form authorizes release of information in accordance with the Health Insurance Portability and Accountability Act, 45 CFR Parts 160 and 164, 5 U.S.C. 552a, and 38 U.S.C. 5701 and 7332 that you specify. Your disclosure of the information requested on this form is voluntary. However, if the information including Social Security Number (SSN) (the SSN will be used to locate records for release) is not furnished completely and accurately, Department of Veterans Affairs will be unable to comply with the request. The Veterans Health Administration may not condition treatment, payment, enrollment or eligibility on signing the authorization. VA may disclose the information that you put on the form as permitted by law. VA may make a "routine use" disclosure of the information as outlined in the Privacy Act systems of records notices identified as 24VA19 "Patient Medical Record - VA" and in accordance with the VHA Notice of Privacy Practices. You do not have to provide the information to VA, but if you don't, VA will be unable to process your request and serve your medical needs. Failure to furnish the information will not have any affect on any other benefits to which you may be entitled. If you provide VA your Social Security Number, VA will use it to administer your VA benefits. VA may also use this information to identify veterans and persons claiming or receiving VA benefits and their records, and for other purposes authorized or required by law. The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 2 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

**ENTER BELOW THE PATIENT'S NAME AND SOCIAL SECURITY NUMBER IF THE PATIENT DATA CARD IMPRINT IS NOT USED.**

TO: DEPARTMENT OF VETERANS AFFAIRS (Print or type name and address of health care facility)  _____ _____ _____	PATIENT NAME (Last, First, Middle Initial) _____ SOCIAL SECURITY NUMBER _____
--	--

NAME AND ADDRESS OF ORGANIZATION, INDIVIDUAL OR TITLE OF INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**VETERAN'S REQUEST:** I request and authorize Department of Veterans Affairs to release the information specified below to the organization, or individual named on this request. I understand that the information to be released includes information regarding the following condition(s):

DRUG ABUSE   
  ALCOHOLISM OR ALCOHOL ABUSE   
  TESTING FOR OR INFECTION WITH HUMAN IMMUNODEFICIENCY VIRUS (HIV)   
  SICKLE CELL ANEMIA

**INFORMATION REQUESTED** (Check applicable box(es) and state the extent or nature of the information to be disclosed, giving the dates or approximate dates covered by each)

COPY OF HOSPITAL SUMMARY   
  COPY OF OUTPATIENT TREATMENT NOTE(S)   
  OTHER (Specify)

\_\_\_\_\_

PURPOSE(S) OR NEED FOR WHICH THE INFORMATION IS TO BE USED BY INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED  
 \_\_\_\_\_  
 \_\_\_\_\_

**NOTE: ADDITIONAL ITEMS OF INFORMATION DESIRED MAY BE LISTED ON THE BACK OF THIS FORM**

**AUTHORIZATION:** I certify that this request has been made freely, voluntarily and without coercion and that the information given above is accurate and complete to the best of my knowledge. I understand that I will receive a copy of this form after I sign it. I may revoke this authorization, in writing, at any time except to the extent that action has already been taken to comply with it. Written revocation is effective upon receipt by the Release of Information Unit at the facility housing the records. Redisclosure of my medical records by those receiving the above authorized information may be accomplished without my further written authorization and may no longer be protected. Without my express revocation, the authorization will automatically expire: (1) upon satisfaction of the need for disclosure; (2) on \_\_\_\_\_ (date supplied by patient); (3) under the following condition(s):

\_\_\_\_\_

I understand that the VA health care practitioner's opinions and statements are not official VA decisions regarding whether I will receive other VA benefits or, if I receive VA benefits, their amount. They may, however, be considered with other evidence when these decisions are made at a VA Regional Office that specializes in benefit decisions.

DATE _____	SIGNATURE OF PATIENT OR PERSON AUTHORIZED TO SIGN FOR PATIENT (Attach authority to sign, e.g., POA) _____
---------------	--

**FOR VA USE ONLY**

IMPRINT PATIENT DATA CARD (or enter Name, Address, Social Security Number)  _____ _____	TYPE AND EXTENT OF MATERIAL RELEASED  _____ _____	
	DATE RELEASED	RELEASED BY



**Social Security Administration**  
**Consent for Release of Information**

---

Please read these instructions carefully before completing this form.

**When to Use This Form** Complete this form only if you want the Social Security Administration to give information or records about you to an individual or group (for example, a doctor or an insurance company).

Natural or adoptive parents or a legal guardian, acting on behalf of a minor, who want us to release the minor's:

- nonmedical records, should use this form.
- medical records, should not use this form, but should contact us.

Note: Do not use this form to request information about your earnings or employment history. To do this, complete Form SSA-7050-F4. You can get this form at any Social Security office.

**How to Complete This Form** This consent form must be completed and signed only by:

- the person to whom the information or record applies, or
- the parent or legal guardian of a minor to whom the nonmedical information applies, or the legal guardian of a legally incompetent adult to whom the information applies.

To complete this form:

- Fill in the name, date of birth, and Social Security Number of the person to whom the information applies.
- Fill in the name and address of the individual or group to which we will send the information.
- Fill in the reason you are requesting the information.
- Check the type(s) of information you want us to release.
- Sign and date the form. If you are not the person whose record we will release, please state your relationship to that person.

**PRIVACY ACT NOTICE:** The Privacy Act Notice requires us to notify you that we are authorized to collect this information by section 3 of the Privacy Act. You do not have to provide the information requested. However, we cannot release information or records about you to another person or organization without your consent for release of information. Your records are confidential. We will release only records that you authorize, and only to persons or organizations who you authorize to receive that information.

**Paperwork Reduction Act Statement** - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 3 minutes to read the instructions, gather the facts, and answer the questions. **SEND OR BRING THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE.** The office is listed under U. S. Government agencies in your telephone directory or you may call Social Security at 1-800-772-1213 (TTY 1-800-325-0778). You may send comments on our time estimate above to: SSA, 6401 Security Blvd, Baltimore, MD 21235-6401. Send only comments relating to our time estimate to this address, not the completed form.