

FILED
San Francisco County Superior Court

NOV 15 1996

ALAN CARLSON, Clerk
BY: Amelia Cabany Clerk

CALIFORNIA SUPERIOR COURT
CITY AND COUNTY OF SAN FRANCISCO

11 IN RE:) NO. 828684
12 COMPLEX ASBESTOS LITIGATION)
13 _____)
14)

**EXPEDITED SUMMARY
JUDGMENT GENERAL
ORDER NO. 157**

15 This General Order is applicable to all asbestos litigation cases filed in the San Francisco
16 Superior Court subsequent to January 1, 1997.

17 **1. Motion for Expedited Summary Judgment**

18 A motion for summary judgment as provided for in Code of Civil Procedure section 437c on
19 the ground that there is no evidence tending to show that the plaintiff or plaintiff's decedent was
20 exposed to asbestos for which the defendant is responsible, shall be deemed filed by each defendant
21 that timely files and serves a Notice of Intent to Request Expedited Summary Judgment. This
22 procedure may be used solely with respect to product, site and contractor identification issues. The
23 Notice of Intent to Request Expedited Summary Judgment need not be accompanied by any
24 supporting papers except as required in paragraph two.

25 **2. Notice of Intent to Request Expedited Summary Judgment**

26 Notice of Intent to Request Expedited Summary Judgment may be served at any time after
27 the completion of plaintiff's deposition or, in cases in which no plaintiff's deposition has been
28

1 scheduled, upon service by plaintiff(s) of answers to Defendant's Standard Defense Interrogatories to
2 Plaintiff, Set 2 and no later than 60 days before the date set for Expedited Summary Judgment
3 Hearing. Such Notice of Intent shall contain a certification by defendant's counsel that:

4 A. Such attorney has reviewed, or caused to be reviewed by another attorney or
5 legal assistant working under the supervision of such attorney, all of the discovery which has been
6 exchanged between the plaintiff and the moving defendant in the action;

7 B. The moving defendant has provided plaintiff with all information in its possession,
8 custody or control, other than expert discovery, which it is required to produce to plaintiff pursuant
9 to General Order No. 129, or pursuant to other proper discovery demand or court order in the action;
10 and

11 C. Plaintiff's responses to discovery in the action have not identified any competent
12 evidence tending to show that the plaintiff or plaintiff's decedent was exposed to asbestos for which
13 the defendant is responsible.

14 **3. Meet and Confer**

15 Not later than 30 days before the hearing date, unless otherwise agreed, counsel shall meet
16 and confer and make a good faith effort to resolve whether there is a triable issue of fact that the
17 plaintiff or plaintiff's decedent was exposed to asbestos for which the defendant is responsible.

18 **4. Response to Notice of Intent to Request Summary Judgment**

19 Not later than 15 days before the hearing date, plaintiff shall:

20 A. Dismiss without prejudice its complaint against such defendant, in which case each
21 party shall bear its own costs of suit, or

22 B. File and serve a Response which conforms to Code of Civil Procedure section
23 437c(d) establishing that there is a triable issue of fact as to whether the plaintiff or plaintiff's
24 decedent was exposed to asbestos for which the defendant is responsible.

25 **5. Reply**

26 Not less than five days before the hearing date, the moving defendant may file and serve by
27 hand delivery or facsimile a Reply to the plaintiff's Response to Notice of Intent to Request
28 Expedited Summary Judgment.

1 **6. Non-Response to Notice of Intent to Request Summary Judgment**

2 In the event that plaintiff fails timely to file a Response to a defendant's Notice of Intent to
3 Request Expedited Summary Judgment:

4 A. The action shall be dismissed without prejudice as to such defendant, and

5 B. Such defendant shall be entitled to costs if the plaintiff fails to deliver a signed
6 dismissal to the defendant before the date scheduled for the hearing.

7 **7. Expedited Summary Judgment Hearing**

8 A Unless otherwise ordered, the Presiding Judge:

9 1. At the Status and Setting Conference will schedule an Expedited Summary
10 Judgment Hearing date between 45 and 60 days before the initial trial date.

11 2. In cases subject to General Order No.140, will schedule an Expedited
12 Summary Judgment Hearing date approximately 15 days before the initial trial date.

13 B. The judge assigned to the Expedited Summary Judgment Hearing shall have the
14 discretion to make a ruling based upon the submitted papers and without the need of a hearing.

15 **8. Order Granting or Denying Summary Judgment**

16 Unless the judge conducting the Expedited Summary Judgment Hearing otherwise indicates:

17 A. If the motion is granted, the ground of the order shall be deemed to be that there is not
18 a triable issue of fact that the plaintiff or plaintiff's decedent was exposed to asbestos for which the
19 defendant is responsible, as reflected in the evidence filed in opposition to the motion.

20 B. If the motion is denied, the ground of the order shall be deemed to be that there is a
21 triable issue of fact that the plaintiff or plaintiff's decedent was exposed to asbestos for which the
22 defendant is responsible, as reflected in the evidence filed in opposition to the motion.

23 **9. Denial for Noncompliance with Discovery**

24 The Court may deny a motion for Expedited Summary Judgment under this general order if it
25 determines that the moving defendant has failed to comply with its discovery obligations to provide
26 evidence relevant to the product, site and contractor identification issues on which the motion is
27 based, and such ground shall be indicated in the order of denial.

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10. Other Summary Judgment Motions

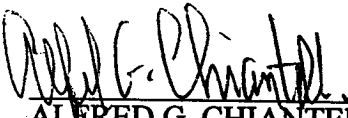
Nothing herein shall preclude any party from bringing a motion for summary judgment on any ground, in full compliance with the procedures and time limitations specified in Code of Civil Procedure section 437c. If a Motion for Expedited Summary Judgment is filed pursuant to this general order, no other Motion for Summary Judgment on the same grounds may be made except in accordance with Code of Civil Procedure section 1008.

11. Sanctions

The submission of a certification as required by paragraph two and four without a good faith and objectively reasonable basis for having done so shall be grounds for the imposition of sanctions upon a party and/or its attorney.

Dated: NOV 15 1996


STUART R. POLLAK
Judge of the Superior Court


ALFRED G. CHIANTELLI
Judge of the Superior Court
11/15/96