

FILED
San Francisco County Superior Court

FEB -3 2000

ALAN CARLSON, Clerk
BY: *[Signature]*
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA – UNLIMITED JURISDICTION
CITY AND COUNTY OF SAN FRANCISCO

IN RE: COMPLEX ASBESTOS LITIGATION

NO. 828684

**REVISED GENERAL ORDER
NO. 160 RE: TELEPHONIC
DEPOSITIONS OF RETAINED
EXPERTS**

In an effort to promote cost savings to the parties, pursuant to the power delegated under Section 19 of the Standards of Judicial Administration, the court hereby adopts this General Order Re. Telephonic Depositions of Retained Experts. This General Order applies to all asbestos litigation currently pending in the San Francisco Superior Court – Unlimited Jurisdiction. It shall take effect as of February 1, 2000 and shall remain in effect until further order of the court.

IT IS ORDERED:

Upon proper demand, pursuant to General Order 156, by a party (“the deposing party”) to depose a retained expert witness designated by another party (“the defending party”), the defending party may make the expert witness available for deposition by telephone, upon the following conditions:

1. Counsel for the defending party shall notify all counsel thirty (30) days prior to trial in cases governed by General Order 129 and fourteen (14) days prior to trial in cases governed by General Order 140 that the expert witness will be offered for deposition by

1 telephone. If Dr. William Longo is offered and will use or testify about videotaped materials,
2 the videotapes specific to each deposing party shall be identified at least five (5) business days in
3 advance of the scheduled deposition and shall be lodged with Tooker & Antz Court Reporters,
4 818 Mission Street, 5th Floor, San Francisco, California 94103 at least five (5) business days in
5 advance of the scheduled deposition. This provision is without prejudice to plaintiff using any
6 other tapes against any other non-deposing parties remaining in the case or group of cases at the
7 time of trial. Failure to comply with this condition, or to act in good faith, may result in
8 exclusion of the videotaped materials and testimony relating to them at trial. Any party objecting
9 to the taking of deposition by telephone shall advise all counsel in writing by facsimile or hand
10 delivery of the basis of their objection no later than five (5) business days in General Order 129
11 cases and two (2) business days in General Order 140 cases, after notification of the proposed
12 date, time and place that the retained expert is being offered for deposition by telephone. The
13 parties are also encouraged to give telephonic notice of their objection to the defending party.
14 The defending party shall meet and confer in good faith with the opposing party to resolve any
15 issues pertaining to the offered telephone deposition. The objecting party shall have the burden
16 of bringing any motion to prevent the taking of a deposition by telephone. Any such motion can
17 be brought upon twenty-four (24) hours' notice and shall be heard by Judge Stuart R. Pollak or
18 other judge designated by the presiding judge.

19 2. Counsel for the defending party shall designate an office within twenty-five (25)
20 miles of San Francisco ("the deposition location") at which the court reporter transcribing the
21 deposition will be located and from which all attorneys attending the deposition may participate
22 by telephone. Any party may attend by telephone from any other location if such party so wishes
23 and arranges the telephone hookup.

24 3. The defending party will, at least two (2) business days in advance of the
25 deposition, also provide a copy of the expert's file (including deposition(s) reviewed by the
26 expert in preparation for his or her testimony which the expert has highlighted, tabbed or
27 otherwise altered) and Curriculum Vitae to any party who so requests it. Any party requesting a
28 copy of the expert's file in advance of the deposition shall be obligated to share in the cost of the

1 deposition regardless of whether the party attends the deposition.

2 4. If there are additions to the expert's file within forty-eight (48) hours prior to the
3 deposition, the defending party will provide all additional materials to any party who previously
4 requested materials as soon as practicable at least one (1) hour prior to the scheduled deposition.
5 The defending party will notify the deposing party in writing two (2) business days in advance of
6 the deposition in the event the expert to be deposed does not have a file and/or Curriculum Vitae.

7 5. Counsel for the defending party shall be responsible to have a facsimile machine
8 readily available for use by the expert witness during the course of the deposition, and counsel
9 for the deposing party shall be responsible to have a facsimile machine readily available at the
10 deposition location for use during the course of the deposition.

11 6. The attorney for any party may elect to be personally present with the deponent
12 during the deposition, but in such case the deposition shall be taken, at the option of the expert
13 witness, at the office of the expert witness or at such location as counsel for the electing party
14 may designate within twenty-five (25) miles of the office of the expert witness. Any attorney so
15 electing shall give notice of such election to the defending party by facsimile or hand delivery
16 within five (5) business days, in cases governed by General Order 129, and two (2) business
17 days, in General Order 140 cases, of receiving notice of the date, time and place at which the
18 expert is being offered by the defending party.

19 a. If counsel for the defending party elects not to be personally present with
20 the deponent, such counsel shall designate another location within twenty-five (25) miles of San
21 Francisco at which all attorneys attending the deposition may participate by telephone; any party
22 may attend by telephone from any other location if such party so wishes and arranges the
23 telephone hookup.


24 b. If counsel for the defending party elects to be personally present, notice
25 shall be provided to all parties at the time the expert is offered for deposition and the attorneys
26 for any other party may arrange to attend the deposition by telephone pursuant to paragraph 2
27 above.

28 7. The cost of the telephone connection shall be paid by the defending party, and

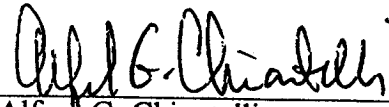
1 shall be a recoverable cost of suit. The deposing party shall tender the expert's fee to the expert
2 no later than scheduled time for the commencement of the deposition if the deposing party is
3 present with the expert. If the deposing party is not present with the expert the deposing party
4 shall tender the expert's fee to the defending party no later than the scheduled time for the
5 commencement of the deposition.

6 8. Nothing herein precludes the parties from reaching different or additional
7 agreements concerning retained expert depositions. This order does not apply to non-retained
8 expert witness or percipient witness depositions which shall be taken pursuant to the applicable
9 provisions of the Code of Civil Procedure or by stipulation of the parties. Nothing in this order
10 shall limit the parties right to seek a protective order or other relief including a motion to exclude
11 expert testimony and/or to compel the personal appearance of an expert for deposition and for
12 sanctions pursuant to the applicable provisions of the Code of Civil Procedure and the General
13 Orders.

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15 Dated: 2/3/00


Stuart R. Pollak
Judge of the Superior Court

16
17
18 Dated: 2/3/00


Alfred G. Chiantelli
Judge of the Superior Court