

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: WELDING ROD PRODUCTS
LIABILITY LITIGATION

: Case No. 1:03-CV-17000
: (MDL Docket No. 1535)
:
: JUDGE O'MALLEY
:
: ORDER
:

The Court held an initial case management conference in this case on September 16, 2003, and ruled on several matters on the record. This Order documents the Court's rulings.

The **Organizational Structure** for this MDL proceeding shall be as follows. The Court reserves the right to modify and amend these designations.

Plaintiffs' Lead Co-Counsel – Don Barrett (Lexington, Mississippi) and Richard Scruggs (Pascagoula, Mississippi).

Plaintiffs' Liaison Counsel – John Climaco (Cleveland, Ohio).

Plaintiffs' Executive Committee – Drew Ranier (Lake Charles, Louisiana); Joseph Rice (Charleston, South Carolina); Walter Umphrey (Beaumont, Texas); Daniel Becnel, Jr. (LaPlace, Louisiana); J. Michael Papantonio (Pensacola, Florida); John E. Williams, Jr. (Houston, Texas); and Richard Heimann (San Francisco, California).

Defendants' Lead & Liaison Counsel – John Beisner (Washington, D.C.).¹

With regard to the **Motions to Remand** pending in the various cases now before this Court, the plaintiffs will file a “Universal Remand Brief” on October 1, 2003. This Brief will provide a consolidated overview of: (1) the arguments made in the various cases; (2) which cases make which arguments; and (3) the applicable law, including law from the Sixth Circuit. The defendants will file a responsive Universal Brief on October 15, 2003. The Court may then hold oral argument.

With regard to **Scheduling**, the parties will submit a **proposed case management order** to the Court on October 1, 2003. The parties will try to reach agreement on the contents of this proposed order, and will submit competing proposals on issues where agreement cannot be reached. This proposed order will include proposed schedules and deadlines, and will address the following topics, as well as any others the parties believe are appropriate: (1) expert and fact discovery; (2) limits on the scope of discovery, and mechanisms for addressing attorneys' scheduling conflicts; (3) submission of a stipulated protective order; (4) the creation of a document repository; (5) submission of one or more medical/science tutorials to the Court; (6) filing briefs on various discrete issues (e.g., class treatment, science issues); (7) tolling agreements; (8) severance of plaintiffs in multi-plaintiff cases; (9) venue issues in connection with whether plaintiffs should file cases directly with this Court; (10) the parties' organizational structures, to the extent modifications are necessary or appropriate; and (11) amendment of pleadings and/or filing of master pleadings. The Court will meet with Lead and Liaison Counsel only on October 15, 2003 at 10:00 a.m. to discuss their proposed case management order.

¹ Mr. Beisner will submit additional information regarding the defendants' proposed organizational structure with the parties' proposed case management order, discussed below.

With regard to **Other Pending Motions**, the parties will, as soon as possible, submit to the Court a chart identifying: (1) the motions pending in all federal cases, as well as associated briefs; and (2) the substantive motions already ruled on in those cases, as well as associated briefs and Orders. In addition, the parties will submit a chart listing known related state court cases, the status of those cases, and judicial contacts.

Finally, the Court notes that: (1) ADR is not appropriate at this time; and (2) the parties do not consent to the jurisdiction of a Magistrate Judge. The Court also reaffirms that this case is ordered into electronic filing: **All counsel representing any party in any case that is a part of this MDL proceeding MUST sign up to participate in the Court's electronic filing system.** For more information on electronic case filing, see the Notice from the Clerk of Court attached to the Court's Practice and Procedure Order (docket no. 7), or visit this website:

http://www.ohnd.uscourts.gov/Electronic_Filing/CMECF_Notice/cmecf_notice.html

IT IS SO ORDERED.

s/Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE