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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

**IN RE: WELDING FUME PRODUCTS
LIABILITY LITIGATION**

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

Pursuant to agreement of the parties, and in order to allow the parties and the Court the time necessary to fully brief and argue various evidentiary issues before and during the first MDL trial, the Court hereby

ORDERS as follows:

- the trial date of the first MDL trial (*Ruth v. A.O. Smith Corp.*, case no. 04-CV-18912), is **changed** to begin on August 29, 2005, and expected to end on or before September 23, 2005.
- the Court will hold additional *Daubert* hearings beginning on July 25, 2005, and expected to conclude on or before August 10, 2005. These hearings will address only those issues not already addressed in the Court's prior *Daubert* hearings, to include: (1) certain issues raised in the "Omnibus Motion" (dkt. no. 972); (2) issues raised in the motion to limit the testimony of Fechter and Buckley (dkt. no. 966); (3) issues raised in the motion to exclude the testimony of Lees-Haley (dkt. no. 968); (4) issues raised in the motion to limit testimony regarding pathology and PET scans (dkt. nos. 971, 964); (5) issues regarding the admissibility of testimony from Bowler; and (6) issues regarding the admissibility of testimony from experts specific to the *Ruth* MDL trial (i.e., non-core experts).

- notwithstanding Fed. R. Civ. P. 12(a)(1)(A), the **deadline for filing of defendants' answers** in all MDL cases shall be the date 20 calendar days after the MDL case is entered by the Clerk of Courts into Electronic Case Filing ("ECF"). For the purposes of allowing the parties to measure this period, on the same day that the Clerk of Courts enters a case into ECF, the Clerk shall notify the parties of this event by email. Specifically, the Clerk shall send email notice to plaintiffs' liaison counsel at cmjani@climacolaw.com (Christina Janice), and to defendants' liaison counsel at bpower@omm.com (Bryan Power). Liaison counsel shall then forward this notice to other defendants, as appropriate.¹

IT IS SO ORDERED.

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

DATED: May 5, 2005

¹ This provision **modifies** the first sentence of Section VIII.B of the Court's initial Case Management Order ("CMO"), which reads: "In any case subsequently added to this proceeding in which an answer has not previously been filed and in which a remand motion is not pending, the defendants shall answer the complaint within twenty (20) days after the case is transferred to this proceeding or filed in this Court (or within twenty (20) days after a defendant is served, if later than the transfer or filing date)." Order at 12 (dkt no. 63). The other provisions in this section of the CMO (regarding due dates in cases where motions to remand are pending, and regarding the filing of Rule 12 motions) are unchanged.