

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
THIS DOCUMENT RELATES TO)	
ALL ACTIONS)	JUDGE O'MALLEY
)	

FOURTH CASE MANAGEMENT ORDER

IT IS HEREBY ORDERED that the Case Management Order ("CMO"), Second Amended Supplemental Case Management Order ("Supp. CMO"), and Third Case Management Order ("Third CMO") entered in this proceeding on December 9, 2003, August 31, 2004 and December 10, 2004, respectively, shall be supplemented and amended as follows:

I. INITIAL TRIAL DATES

1. Plaintiffs' Co-Lead Counsel shall notify Defendants' Liaison Counsel and the Court of their choice for the second trial in the MDL proceeding by March 15, 2005. That trial is set to commence on October 31, 2005.

2. The parties shall submit a proposal for the scheduling of the proceedings necessary to prepare the second case for trial on or before April 1, 2005.

3. By March 22, 2005, Defendants' Liaison Counsel shall identify 7 – 10 representative plaintiffs as candidates for the third MDL trial. By April 5, 2005, Plaintiffs' Co-Lead Counsel shall select one of these plaintiffs for the third MDL trial. The trial of that case is set to begin on February 6, 2006.

4. The parties shall submit a proposal for the scheduling of the proceedings necessary to prepare the third for trial on or before April 29, 2005.

5. The Court has set aside time for a fourth MDL trial to begin on May 22, 2006.

II. DISCOVERY CUT-OFF DATES

1. Paragraph XI.G of the existing CMO, as modified by Paragraph V of the Supp. CMO, and Paragraph III of the Third CMO, are hereby amended as follows:

a. All core fact discovery – that is, all general fact discovery that may be relevant to more than one case in this proceeding – shall be completed by May 2, 2005.

b. All case-specific fact discovery in the first case to be tried before the Court in this proceeding shall be completed by May 2, 2005.

c. All case-specific fact discovery in the second and third cases to be tried before the Court in this proceeding shall be completed pursuant to the schedule to be submitted by the parties pursuant to Paragraph I above, as adopted by this Court.

III. *CORE DAUBERT* MOTIONS

The dates set forth in Paragraphs I.A, I.B.1 & 2 of the Supp. CMO and Paragraph IV of the Third CMO are modified as follows:

1. The core expert depositions authorized in Paragraph XIII.B.5 of the existing CMO shall be completed on or before April 15, 2005.

2. Motions regarding the admissibility of any testimony proposed by any core experts identified pursuant to Paragraphs XIII.A.1 or XIII.A.2 of the existing CMO (*Daubert* motions) shall be filed on or before March 25, 2005. Oppositions to any such motions shall be filed on or before April 18, 2005. Reply briefs in support of such motions shall be filed on or before April 29, 2005. By agreement of the parties, these deadlines do not apply to any challenges to the testimony of plaintiffs' experts Bowler, Gartrell and Harrison, whose depositions have not yet been taken.

3. The Court will conduct hearings on all pending motions regarding the admissibility of testimony proposed by core experts beginning on May 2, 2005. Prior to that date, the Court will confer with the parties about the format and content of those hearings. The Court is presently reserving a two-week period for those hearings.

IV. CASE-SPECIFIC DISPOSITIVE MOTIONS IN INITIAL MDL TRIAL CASE

The dates set forth in Paragraph VI of the Supp. CMO and Paragraph VI of the Third CMO are modified as follows:

1. On or before April 27, 2005, the parties shall file any dispositive motions in the initial MDL trial case.

2. On or before May 27, 2005 (or 30 days after the filing of a motion), the parties shall file their oppositions to any dispositive motions in the initial MDL trial case.

3. On or before June 13, 2005 (or 15 days after the filing of any opposition), the parties shall file replies in support of any dispositive motions in the initial MDL trial case.

4. The Court shall conduct a hearing on the dispositive motions beginning on a date to be determined by the Court.

V. CASE-SPECIFIC EXPERTS IN INITIAL MDL TRIAL CASE

1. The dates set forth in Paragraph VI of the Supp. CMO and Paragraph V of the Third CMO are modified as follows:

a. Discovery of the parties' case-specific experts shall be completed by May 20, 2005.


b. On or before May 27, 2005, the parties shall file any *Daubert* motions regarding case-specific experts in the initial MDL trial case.

c. On or before June 17, 2005 the parties shall file oppositions to any *Daubert* motions regarding case-specific experts in the initial MDL trial case.

d. On or before July 1, 2005, the parties shall file their replies in support of any *Daubert* motions regarding case-specific experts in the initial MDL trial case.

e. The Court shall conduct a hearing on any *Daubert* motions filed as to case-specific experts in the initial MDL trial case on a date to be determined by the Court.

IT IS SO ORDERED.


KATHLEEN MCDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE