CAUSE NO. 94-02380

IN RE: ASBESTOS LITIGATION	§	**IN THE DISTRICT COURTS OF**
	§	
	§	**TRAVIS COUNTY, TEXAS**

06 JAN 19 PM 12:40
DISTRICT CLERK
TRAVIS COUNTY, TEXAS

STANDING ORDER

On this 18th of January, 2006, having considered the type and number of asbestos cases pending in Travis County, and after having heard the argument of counsel and reviewing the motions and briefs of the parties, the Court finds that good cause exists for the entry of this Order.

This Order is intended to facilitate the administration of asbestos disease cases in Travis County by reducing multiple filings and hearings, by creating a central repository for certain filings, and by setting out Orders for the orderly disposition of the cases as a whole. This Order immediately supercedes and strikes Paragraphs 2 and 29 of the Amendments to Standing Order signed on July 11, 2000. This Order shall apply to all cases filed on or after the date of this order in the District Courts of Travis County, with the specific exception noted in the following sentence, in which a claim for money damages is made for any injury, illness, malignancy, fear of malignancy, mental anguish, loss of consortium, survival benefits, wrongful death, or other damages claimed as a result of exposure to products containing asbestos. Cases pending on the date of this order with existing trial settings within one hundred eighty (180) days of the date of this Order shall be governed by the Standing Order signed February 23, 1994, the Amendments to the Standing Order signed April 20, 1994, and paragraphs 30, 31 and 32 of the Amendments

to Standing Order signed July 11, 2000. In all other respects, this Order supercedes all prior Standing Orders and any amendments thereto related to asbestos cases. However, nothing in this Order shall preclude a party from seeking relief from the Court for good cause.

I.
PROCEDURES

1. The District Clerk of Travis County shall maintain a file entitled "In Re: Asbestos Litigation," which may be referred to as the "Master Asbestos File." Instruments applicable to all asbestos cases and pertaining to common issues shall be filed in such file.

2. **Attorney List Update**: The District Clerk of Travis County shall maintain a Master Service List of all counsel representing parties in any asbestos case filed in Travis County. Counsel for each party shall be listed once with names, addresses, phone numbers, fax and email addresses, and any party required to serve notice in an asbestos case governed by this Order shall serve one copy of the document to be served on counsel for each party as appearing on the master service list.

3. **Multiple Attorney Representation for a Defendant and Substitutions**: If a Defendant is represented by more than one law firm in Travis County, each firm shall be listed on the Master Service List. Additionally, counsel for Defendants represented by more than one law firm shall be responsible for notifying Plaintiff's counsel of substitutions on a case by case basis. The District Clerk's Office shall make every effort to periodically update the Master Service List and post this list on the Travis County District Courts Website at http://www.co.travis.tx.us/district_courts. Any counsel substituting or changing designation of lead counsel in the Travis County Asbestos Litigation shall inform the clerk of their appearance and request inclusion in the Master Service List, and provide notice to other counsel on the List,

to include all counsel of record in each particular case in which the change is to take effect, rather than file motions and orders to substitute in individual cases. Parties shall also be responsible for notifying the clerk of the Court to assure the Court's List is updated as needed. If a Defendant is represented by more than one Attorney in Charge in Travis County, each party shall designate each Attorney in Charge with the case in which they provide representation. Each party shall designate only one Attorney in Charge for each case.

4. **Lead Defense Counsel**: After appearance date of each asbestos case, all counsel for Defendants in that particular case shall confer and designate a Lead Defense Counsel for each category of Defendants sued. These categories shall include Products Manufacturer Defendants, Fiber Supplier Defendants, Distributor/Retailer Defendants, Premises Defendants, Contractor Defendants and Mask/Respirator Defendants. Once designated, Lead Defense Counsel for each category of Defendants shall provide notice to Plaintiffs and all known parties in that particular case as soon as reasonably practicable. Should Lead Defense Counsel settle or resolve the claims against their client before trial, notice of counsel's withdrawal as Lead Defense Counsel shall be provided to Plaintiffs and to all other known parties in the case as soon as reasonably practicable. Lead Defense Counsel shall be responsible to act as a coordinator for discovery matters for their category of Defendants. Plaintiffs' obligation to provide the evidence set forth in Paragraph 19 to Defendants will be fulfilled when this evidence is provided to one or more Lead Defense Counsel in each case for each Plaintiff and it is incumbent on Defendants at that point to coordinate sharing that evidence, and notifying others of the status of the review of the pathology. The evidence shall be shared promptly. Counsel for Defendants shall also confer and determine among themselves the order in which they will examine witnesses and participate in trial, depositions, etc.

5. **Filings in the Master Asbestos File**: All motions and other instruments that apply to all asbestos cases shall be filed in the Master Asbestos File ONLY and will be captioned "In Re: Asbestos Litigation" and bear the name of the motion. A motion or other instrument filed in the Master Asbestos File is deemed filed in each and every asbestos file to which it may be applicable, and is incorporated by reference into these files for all purposes. The resulting Order shall control all such cases. Case specific Motions shall be filed in the applicable case file and should not be filed in the "In Re: Asbestos Litigation" file.

6. **Service of Citation**: Each original petition or initial petition as to a particular Defendant shall be filed and served by the Plaintiffs' counsel in accordance with Rule 106, by citation, or by agreement of parties. In the absence of objection, Defendants may be served via certified mail, return receipt requested, on the registered agent for service of process in Texas for each Defendant, and Plaintiffs shall serve along with the petition an abbreviated citation prepared by Plaintiffs' counsel in the form which is attached hereto as Exhibit "A." If the Defendant does not have a registered agent in Texas for service of process or a Defendant has no counsel listed on the Master Service List, service shall be made in accordance with existing rules.

7. **Plaintiff's Petition**:

A. In each petition, Plaintiffs shall identify specifically which individual Plaintiffs are suing which particular Defendants.

B. Unless otherwise specified in the petition, Plaintiffs shall include in responses to interrogatories sufficient information to identify whether the claims made by each Plaintiff against each Defendant are made against the Defendant as a Products Manufacturer Defendant, Fiber Supplier Defendant, Distributor/Retailer Defendant, Premises Defendant, Contractor Defendant and Mask/Respirator Defendant or any combination thereof.

8. **Answer**: Each Defendant shall file a Master Answer that contains all global defenses being asserted against Plaintiffs' claims in asbestos case litigation in Travis County. The Master Answer shall be filed in the Master File, In Re: Asbestos Litigation, Cause Number 94-02380. The Master Answer may be amended or supplemented at any time, so long as amendment or supplementation does not violate any case specific scheduling order entered in a particular case. The Master Answer shall be deemed filed in each Travis County asbestos case in which that party is a Defendant. A Defendant may file and serve an answer or amended answer specific to a case, provided that service is made on Plaintiffs' counsel and known defense counsel in that case.

9. **Default Judgment**: No party shall seek or obtain a default judgment against any Defendant who has filed a Master Answer in the Master File.

10. When filing or serving any deposition notice, discovery instrument, pleading, motion, or notice of hearing, counsel shall designate, to the extent possible, the Plaintiff(s) and the Defendant(s) who shall be affected by the filed or served document or notice.

II.
DISCOVERY

11. Motions concerning common issues shall be filed in the Master Asbestos File and served upon opposing counsel seven (7) or more days in advance of the requested hearing date. The Court may entertain emergency motions otherwise.

12. In any case filed before September 1, 2003, Plaintiffs shall serve responses to the master set of discovery attached to the Standing Order dated February 23, 1994, within ninety (90) days of the filing of a case. If the case was filed after September 1, 2003, and the case was or is tagged into the Asbestos MDL, the Case Management Order in that court will govern the

discovery in the case. If the case was filed after September 1, 2003 but was not or is not tagged into the Asbestos MDL, each party shall serve responses to discovery prescribed in the Asbestos MDL Case Management Order in the event that such party has not responded to the Travis County Master Discovery as of the date of this Order. Copies of these discovery responses shall be served upon each party.

13. Each party may also propound to an opposing party an additional, non-duplicative set of interrogatories, requests for production and requests for admissions, limited to no more than a total of ten (10) requests. The opposing party shall serve his or her objections and/or responses to such additional discovery within thirty (30) days from the date the discovery is served.

14. Simultaneous with the filing and service of responses to Master Discovery, Plaintiffs will also provide the Defendants with signed authorizations, in compliance with the Health Insurance Portability and Accountability Act ("H.I.P.A.A."), to enable Defendants to obtain medical records, Veterans' Administration records, income tax records, social security records, military records, personnel records, and any other authorizations needed to obtain discoverable information.

15. The Master Scheduling Order for all cases subject to this Order is attached as Exhibit "B."

16. Beyond the discovery provided for in this Order, no party may serve any additional written discovery other than requests for disclosures except by agreement or upon leave of Court.

17. Plaintiffs will make available all original tissue, paraffin blocks, slides, electron micrographs, and chest x-rays from examining and/or treating physicians, hospitals, clinics or other health providers to the extent relevant to the claims made. If no Defendant has received any such materials at least ninety (90) days before trial, Defendants shall have no less than thirty

(30) days to assess medical evidence and produce any requested reports they deem necessary notwithstanding any procedural rules or scheduling deadlines to the contrary. Defendants shall be entitled to procure additional medical records or items by use of the authorizations provided by Plaintiffs' counsel in accordance with this Order. Plaintiffs' counsel shall notify Defendants by letter or discovery response whether an autopsy of any type, private or public, has been performed on Plaintiff and if so, provide the autopsy report(s) to all parties within thirty (30) days of its receipt.

18. Plaintiffs shall make available all medical records to the extent that they may be related to any disease process for which recovery is sought, which shall be made available to Lead Defense Counsel upon request. Defense Counsel may also use authorizations provided by Plaintiffs' counsel in accordance with this Order to obtain any additional records and will make these records available to all parties at copy costs upon request. These medical records are deemed authentic and "business records" under the Texas Rules of Civil Evidence, unless written specific objection is made thereto at least ten (10) days prior to trial.

19. Unless the deposition of the Plaintiff is taken in accordance with Paragraph 20 of this Order regarding exigent depositions due to a grave medical condition, the deposition of the Plaintiff shall be noticed to take place in (1) Travis County, Texas, or (2) another location in Texas mutually agreeable to Plaintiff's counsel and one or more Lead Defense Counsel.

20. Depositions shall be permitted on an expedited basis, even prior to the filing of a petition, when Plaintiff is in grave health. All claimants with mesothelioma meet this criterion. These expedited depositions shall require at least two weeks (14 days) notice, accompanied by sufficient information to prepare for the deposition. This information, which must be provided to all potential parties (in cases not yet filed) or all parties (in cases already filed) at least two weeks

before the deposition, must include: (1) a list of all potentially interested parties or a proposed petition in those cases where the petition had not already been served on all Defendants; (2) Plaintiff's sworn answers to master discovery as detailed in this Order, including a work history sheet listing specific product identifications, employers, job sites, and years at each, to the extent known or knowable and including the capacity in which each Defendant is being sued or will be sued; (3) medical records and diagnosis information to the extent these items are in the custody of Plaintiff's counsel; and (4) social security records when available from Plaintiff or Plaintiff's counsel. Notwithstanding these requirements, the verification (only) for Paragraph (2) can be provided at the time of the deposition itself. Should Plaintiff comply with these requirements, leave of Court shall not be required to notice an exigent deposition, and it is not necessary for Plaintiffs to provide a doctor's letter confirming the exigent circumstances. Nothing about this Order shall affect a party's rights to seek Court action in unusual circumstances to shorten the notice period, or seek relief for an abuse of this process by any party; nor shall this procedure and appearance at an exigent deposition impair the right of any Defendant to assert special appearances, venue or forum non conveniens challenges.

21. Defendants are, as a group, entitled to arrange for a single medical examination of the Plaintiff, if living and asserting a non-malignant physical condition, to be conducted by a physician of their choice and at their expense. The request for medical examination should be coordinated by one or more Lead Defense Counsel for each category of Defendants and shall be coordinated with each Plaintiff's discovery deposition, if at all possible. Defendants shall reimburse Plaintiffs for reasonable travel expenses associated with each Plaintiff's medical examination. If Plaintiff has been diagnosed with a malignant medical condition, any medical examination under this section shall be done only by motion and order, and shall be scheduled at

a location within a reasonable distance of Plaintiff's residence, given the circumstances of the Plaintiff's health.

The Defendants are ordered to cause a report of such medical examination to be reduced to writing and served upon Plaintiff's counsel as soon as practicable after the examination.

III.
PLEADINGS AND MOTIONS

22. Each Defendant with an answer on file is deemed to be asserting a cross-action for contribution and indemnity against each of the other Defendants and/or settling Defendants for any claims they may assert in such action. Cross-actions against Defendants who have been dismissed or nonsuited by Plaintiffs will be dismissed thirty (30) days after the dismissal order is signed, or the notice of non-suit is filed, unless objection to the dismissal or non-suit is made in writing. This dismissal of cross-actions will be effective automatically by virtue of this Order without the necessity of any written motion or written order by the Court.

23. Nothing in this Order shall be construed as a waiver of any parties' special appearances, motions to transfer, motions for forum non conveniens, motions for continuance, motions opposing consolidation, or motions to determine applicable substantive law of these actions. Participation in the drafting of this Order, the filing of any standard set of discovery, or the appearance in any hearing concerning the entry of this Order shall not be construed as constituting an appearance by any Defendant.

IV.
PRE-TRIAL PROCEDURE

24. Should a hearing be cancelled by agreement of the parties directly involved in the

hearing, including movants, parties joining motions to be heard, and any respondent, the parties shall not be required to seek agreement from all parties to a particular case to cancel the hearing.

25. The parties shall confer with each other prior to trial to discuss and attempt to resolve objections to exhibits.

26. A party obtaining a setting shall notify all known parties of a trial setting as soon as reasonably practicable after receipt of the trial setting from the Court.

27. Videotaped or digital depositions should be edited so that they can be played for the jury without interruption; the pages and lines played should be noted on a document and provided to the court reporter.

V.
BANKRUPTCY

28. A Master Bankruptcy File will be set up by the District Clerk as Cause Number GN201870. All claims, counterclaims, and cross-claims against any Defendant filing a bankruptcy petition in federal court will be deemed severed and transferred to the Master Bankruptcy File effective immediately upon the filing of the bankruptcy petition. All claims, counterclaims, and cross-claims presently pending against any bankrupt Defendant are hereby deemed severed and transferred to the Master Bankruptcy File. Responsibility for ensuring that appropriate documents are transferred to the Master Bankruptcy File will be shared by all parties asserting a claim, counterclaim, or cross-claim against the debtor. Notwithstanding, a severance is effective immediately upon the filing of the bankruptcy petition and does not depend upon any further action by the district clerk or the parties.

The Court reserves the right to supplement or modify this Order upon reasonable notice to all counsel on the Master Service List.

SIGNED this the 18 day of January, 2006.

Judge, 53rd District Court

Judge, 250th District Court

Judge, 98th District Court

Judge, 261st District Court

Judge, 126th District Court

Judge, 345th District Court

Judge, 200th District Court

Judge, 353rd District Court

Judge, 201st District Court

CAUSE NO. _____

PLAINTIFF(S)	§	**IN THE COUNTY OF**
	§	
V.	§	
	§	
DEFENDANT(S)	§	**TRAVIS COUNTY, TEXAS**

NOTICE AND SERVICE OF SUIT

You have been sued. This is service of the attached pleading in accord with the Travis County, Texas, Standing Order pertaining to asbestos-related cases (*In RE: Asbestos Litigation,* CN 94-02380, Dist. Court, Travis County, Texas) You may hire an attorney. You are directed to file an answer or otherwise appear in this case by no later than 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this notice and the attached pleading.

EXHIBIT "A"

SCHEDULING ORDER FOR
TRAVIS COUNTY ASBESTOS LITIGATION

This Scheduling Order is subject to, and does not amend, any deadlines contained in the *Amended Standing Pretrial Scheduling Order for Trial of Civil Jury Cases Including Use of Electronic Media*, effective May 1, 2004.

Each living Plaintiff must be presented for deposition to be completed no later than this date.	120 days before trial
Each Plaintiff shall designate all expert witnesses expected to testify at trial and produce copies of any expert reports, if such reports have been prepared.	120 days before trial
Each Plaintiff shall designate all product identification witnesses expected to testify at trial, including a list of all products and Defendant(s) that each such witness is expected to name.	120 days before trial
Each non-malignant Plaintiff shall be made available for an independent medical examination no later than this date.	90 days before trial
Each Plaintiff shall designate all other fact witnesses expected to testify at trial no later than this date.	90 days before trial
Plaintiff's expert witnesses and product identification witnesses must be presented for depositions to be completed no later than this date.	90 days before trial
Each Defendant shall designate all expert witnesses expected to testify at trial and produce copies of any expert reports, if such reports have been prepared.	75 days before trial
Each Defendant shall designate all fact witnesses expected to testify at trial.	75 days before trial
All parties to the action must be joined by this date and all Responsible Third Parties must be designated by this date	60 days before trial
Depositions of all other fact witnesses of Plaintiff must be completed no later than this date.	60 days before trial
Depositions of Defendants' expert witnesses must be completed no later than this date.	45 days before trial
Depositions of Defendants' fact witnesses must be completed no later than this date.	30 days before trial
Discovery must be completed no later than this date.	30 days before trial
Amended pleadings must be filed no later than this date.	14 days before trial
Pretrial Conference. Any objections to deposition designations, exhibits and motions in limine not resolved by conference between counsel will be heard at the Pretrial Conference. At the Pretrial, counsel shall also furnish the Court a copy of the active trial pleadings.	Monday of trial week

EXHIBIT "B"