

DIANA ZALESKI  
2003 DEC 29 AM 11:55  
SUMMIT COUNTY  
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

IN RE: ) MASTER FILE PLEADING  
)  
SUMMIT COUNTY WORKERS ) MISC NO: 2003-00-0022  
COMPENSATION ASBESTOS CASES )  
) CONTROL NO. 1080  
)  
)  
) JUDGE JOHN R. MILLIGAN  
)  
) VIDEO OBJECTIONS  
) ORDER  
)  
)  
) RULE 58 NOTICE

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This matter came on for hearing on the 12-12-03 Motion to Vacate the order of Videotaped Trials in a number of cases identified by the firm of Kelley & Ferraro wherein their clients are Plaintiffs and included in the Workers Compensation Asbestosis cases.

The motion has been filed herein and also in such other cases.

The court granted time to other counsel in such cases to respond and none of the other counsel have responded in writing.

On January 23, 2003, this judge was assigned by the Ohio Supreme Court Chief Justice to adjudicate a large number of Workers Compensation, Asbestos related, cases in Summit County. The number of cases pending was in excess of 300, and many of the cases were over a year old. After developing a team of attorneys to assist in the management of this large number of cases, and examination of the nature, substantive content, age of cases, the limited and similar issues involved in virtually all of these cases, it was apparent that a different, more efficient way of adjudicating these cases was needed. Much of the discovery that was going on nationally was being videotaped, that professional testimony was, in many respects, indigenous to numbers of cases (notwithstanding different parties), large numbers of jurors would be required, and

Summit County court facilities were limited by the significant workload otherwise encountered by its court.

The Law School at the University of Akron agreed to participate in a program of video taping the trials of these cases. The attorneys were invited to observe the facilities at the University and make suggestions about how the process would work. None of the attorneys from the complaining firm accepted the invitation by attending the session on July 1, 2003.

Concurrent with consideration of the video trials the court suggested that a smaller number of jurors would be appropriate and also lead to a more efficient adjudication of these cases. Over objection of counsel, that suggestion was withdrawn. See Civ.R. 48, requiring consent of parties to a reduced number of jurors.

The critical provisions of the enabling video trial rule are contained in Sup.R. 13.

Videotape trials are authorized by Civil Rule 40...Sup.R. 13(B)(1).

...The trial judge may order the recording of all or a portion of testimony and evidence on videotape in an appropriate case. In determining whether to order a videotape trial, the trial judge, after consultation with counsel, shall consider the costs involved, the nature of the action, and the nature and amount of testimony. Sup. R. 13(B)(2).

During the April, 2003, case management meeting, the Court noted: "Counsel need to be prepared for trial by video, per Sup. R. 13(B). The court, upon examination of all of these cases, and consultation with other courts around the state, has determined that video trials are highly appropriate in all of these cases. In reaching this conclusion the court has determined that the costs will be minimalized, the nature of each of the actions is particularly appropriate to the presentation of testimony in such fashion, and the relevant, material testimony that will ultimately be presented to the jury will be minimal. This court has also considered the cost and convenience to jurors and potential jurors of the facility of considering the evidence via video in a continuous fashion as against the time and delay involved in a general trial. The video process will also free up courtroom facilities in Summit County, already overburdened and undergoing renovation. It also offers the possibility of cutting costs for experts by allowing an expert to give testimony in several different cases in quick sequence." (see Sup. R. 13 (B)).

After this review and consultation it was the judgment of this court that these cases are uniquely appropriate for videotaping of the jury charge of the court, the testimony of witnesses, and the preservation of exhibits and records. Jury selection, opening statements, and final argument will all be live in one of the courtrooms.

In the matter of costs the parties will not be assessed the costs of conducting the videos at the University of Akron, the partnering agreement providing that these costs (which

would normally be a part of the provision of facilities and stenographic recording by the county) will be borne by Summit County. (A copy of the requisition is attached.)

It is anticipated that the trial time will be significantly reduced by the elimination in court objections, bench conferences, and rulings during the trial. The burden is on the court to monitor the filed videotape testimony and rule thereon as a precondition to the preparation of the trial tape(s).

The issues to be resolved in each case by a jury are simple and direct – generally, is the party entitled to participate in the insurance fund. There is no issue of damages or compensation.

Plaintiffs, claimants, are entitled to a prompt, fair, and efficient day in court in order that they might get compensation to which they may be entitled; Defendant, employers, are entitled to a merit determination of their liability as it relates to reserves and their obligations.

Finally, the delay of these Plaintiffs in challenging the decision made in May, 2003, to proceed by this videotrial method, has already encumbered expenses for the County of Summit. The County has purchased three television sets and stands at a cost of \$2284.80, and has purchased other equipment, including files, necessary to hold and secure the evidence and video tapes.

These are certainly compelling reasons in the discretion and judgment of this court for the earlier order that these cases by tried as above indicated.

The Motion to Vacate the Videotaped Trial Order, brought pursuant to Civ. R. 60(B) is **OVERRULED** with exceptions to the Plaintiffs.

This Master File Pleading shall be applicable to the following cases, and the Clerk will so note this master entry in the docket of the below-listed cases by date of Master File and Master File Control number:

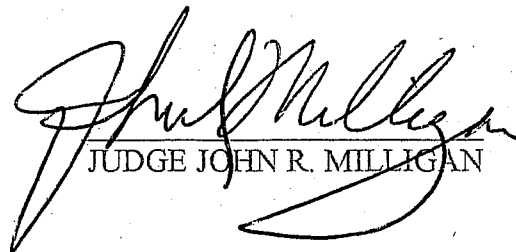
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02 07 3743	02 07 4201	02 08 4582	02 09 5171B
02 07 3744	02 08 4483	02 08 4583	02 09 5171C
02 07 3769	02 08 4568	02 08 4584	02 09 5171D
02 07 3770	02 08 4569	02 08 4585	02 09 5173B
02 07 3772	02 08 4570	02 08 4586	02 09 5173C
02 07 3773	02 08 4571	02 08 4738	02 09 5173D
02 07 3775	02 08 4572	02 09 4901	02 09 5173E
02 07 4026	02 08 4573	02 09 4991	02 09 5204
02 07 4027	02 08 4574	02 09 5023	02 09 5205
02 07 4064	02 08 4576	02 09 5026	02 09 5206
02 07 4180	02 08 4577	02 09 5169	02 09 5215
02 07 4181	02 08 4578	02 09 5170A	02 09 5216

02 09 5217	02 11 6408	02 12 7412	03 02 0756
02 09 5219	02 11 6409	02 12 7414	03 02 0757
02 10 5610	02 11 6839	02 12 7416	03 02 0853A
02 10 5611	02 12 7090A	02 12 7417	03 02 0853B
02 10 5680D	02 12 7090B	02 12 7419	03 02 0853C
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02 10 5911	02 12 7141D	02 12 7426	03 02 0854B
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02 10 5914	02 12 7212	03 01 0029	03 02 0856A
02 10 5984	02 12 7217	03 01 0030	03 02 0856B
02 10 5986	02 12 7218	03 01 0088	03 02 0856C
02 10 6057	02 12 7220	03 01 0090	03 02 0856D
02 10 6059	02 12 7222	03 01 0093	03 02 0856E
02 10 6060	02 12 7225	03 01 0113	03 02 0857
02 10 6061	02 12 7229	03 01 0114	03 02 0858A
02 10 6062	02 12 7230	03 01 0116	03 02 0858B
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02 10 6064	02 12 7268	03 01 0150	03 02 0859A
02 10 6065	02 12 7270A	03 01 0156A	03 02 0859B
02 10 6083	02 12 7270B	03 01 0156B	03 02 0859C
02 10 6086	02 12 7270C	03 01 0158A	03 02 0859D
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02 11 6204	02 12 7273A	03 01 0158D	03 02 1029
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02 11 6356	02 12 7273C	03 01 0159A	03 02 1031
02 11 6357	02 12 7273D	03 01 0159B	03 02 1163
02 11 6358	02 12 7273E	03 01 0159C	03 02 1164
02 11 6359	02 12 7383	03 01 0159D	03 02 1202
02 11 6360	02 12 7384	03 01 0321	03 02 1285A
02 11 6361	02 12 7385	03 01 0322	03 02 1285B
02 11 6362	02 12 7387	03 01 0323	03 02 1285C
02 11 6363	02 12 7389	03 01 0324	03 02 1285D
02 11 6364	02 12 7391	03 01 0638	03 02 1285E
02 11 6365	02 12 7392	03 01 0696	03 02 1286A
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02 11 6370	02 12 7399	03 02 0748	03 03 1362
02 11 6372	02 12 7401	03 02 0749	03 03 1451
02 11 6373	02 12 7402	03 02 0750	03 03 1455
02 11 6374	02 12 7404	03 02 0751	03 03 1517
02 11 6375	02 12 7406	03 02 0752	03 03 1519
02 11 6376	02 12 7407	03 02 0753	03 03 1520
02 11 6378	02 12 7409	03 02 0754	03 03 1679
02 11 6380	02 12 7410	03 02 0755	03 03 1728

03 03 1769	03 04 2167	03 07 3890	03 10 5774
03 03 1827	03 04 2168	03 07 3891	03 10 5776
03 03 1828	03 04 2170	03 07 3892	03 10 5777
03 03 1829	03 04 2382	03 07 3895	03 10 6189
03 04 2051	03 04 2472	03 07 3896	03 10 6270
03 04 2053	03 04 2473	03 07 3897	03 11 6396
03 04 2055	03 04 2474	03 07 3898	
03 04 2059	03 04 2533	03 07 3899	
03 04 2061	03 04 2535	03 07 3900	
03 04 2062	03 04 2655	03 07 3986	
03 04 2063	03 05 2728	03 07 3988	
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03 04 2066	03 05 2730	03 07 4023	
03 04 2102	03 05 2771	03 07 4324	
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03 04 2104	03 05 2774	03 08 4552	
03 04 2105	03 05 2986	03 08 4562	
03 04 2106	03 05 2987	03 08 4649	
03 04 2107	03 05 2988	03 08 4650	
03 04 2108	03 05 3147	03 08 4833	
03 04 2109	03 05 3148	03 08 4880	
03 04 2110	03 05 3149	03 08 4881	
03 04 2111	03 05 3150	03 08 4882	
03 04 2112	03 05 3151	03 08 4883	
03 04 2123	03 05 3152	03 08 4884	
03 04 2140	03 05 3153	03 08 4885	
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03 04 2153	03 06 3454	03 09 5503	
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03 04 2155	03 06 3459	03 09 5505	
03 04 2156	03 06 3549	03 09 5565	
03 04 2157	03 06 3554	03 09 5566	
03 04 2158	03 06 3555	03 09 5567	
03 04 2159	03 06 3646	03 09 5568	
03 04 2160	03 06 3648	03 09 5569	
03 04 2161	03 06 3649	03 09 5653	
03 04 2162	03 06 3650	03 09 5655	
03 04 2164	03 06 3651	03 10 5742	
03 04 2165	03 06 3711	03 10 5743	
03 04 2166	03 06 3840	03 10 5773	
		03 10 5774	

And any other worker's compensation asbestos case filed in Summit County. Subject to further order of the court.

So ordered.



JUDGE JOHN R. MILLIGAN