

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Case Management Index:
764,000/2006

----- X
-
IN RE: FLEET PHOSPHO-SODA PRODUCTS
LIABILITY LITIGATION
----- X
-

: Hon. Marcy S. Friedman
: Index No. ~~560001705~~

CASE MANAGEMENT ORDER NO. 1

I. Applicability Of This Order

This Order applies to and governs pretrial procedures involving all Fleet® Phospho-Soda® Products Liability (“FPSPL”) actions pending presently and in the future in the Supreme Court of the State of New York.¹ As of the entry of this Order, there are nine (9) FPSPL actions pending in New York State.²

II. Rules Of Procedure

The New York Civil Practice Law and Rules, the Uniform Rules for the New York State Trial Courts, and the express provisions of this and any future Case Management Orders, shall govern all proceedings herein.

III. Trial Venue

The time for serving a demand and motion to change venue in an ^{NEW YORK} ~~any New York~~ case governed by this Case Management Order is hereby tolled until thirty (30) days after the filing of a Note of Issue and Certificate of Readiness.

FILED
DEC 12 2006

NEW YORK
COUNTY CLERK'S OFFICE

¹ By Decision and Order, dated March 28, 2006, the New York State Litigation Coordinating Panel directed that all personal injury actions filed in the State of New York arising out of the use of Fleet Phospho-Soda shall be coordinated before a Justice of the Supreme Court of the State of New York for the County of New York. By Administrative Order, dated April 14, 2006, Justice Marcy S. Friedman was designated as the New York County Justice before whom all personal injury actions arising out of the use of Fleet Phospho-soda shall be coordinated.

² The nine actions are listed on **Exhibit A**.

IV. Discovery Guidelines: Medical Records

1. In each case governed by this Case Management Order: (a) plaintiff shall provide defendants' counsel a list of all of plaintiff's known medical providers and authorizations for the release of records from such medical providers within twenty (20) days of the receipt of defendant C.B. Fleet Company, Inc.'s Answers to the Complaint; and (b) defendants shall produce to plaintiff's counsel copies of all documents obtained pursuant to signed authorizations in PDF or TIF format within ten (10) days of receiving such documents.³

2. Within ten (10) business days of receipt of a written request from defendants' counsel for a signed authorization for the release of records from a particular provider, plaintiff will provide the requested authorization or set forth a written objection to such request.

V. Discovery Guidelines: Fact Discovery

1. In the six (6) NYSFPSPL actions filed prior to 2006⁴:

³ To the extent that defendants' counsel has obtained documents pursuant to plaintiff-provided authorizations in pending FPSPL cases, defendants' counsel shall provide such documents to plaintiffs' counsel in PDF or TIF format on or before August 24, 2006.

⁴ The six actions are:

- (1) Frances and Benjamin Goldwasser v. C.B. Fleet Holding Company, Inc., et al., New York County Index No. 117698/2004;
- (2) Goldie and Joseph Guttman v. C.B. Fleet Holding Company, Inc., et al., New York County Index No. 402192/2006;
- (3) Ana and Alan Krieger v. C.B. Fleet Holding Company, Inc., et al., New York County Index No. 110380/2005;
- (4) Veronica Lake v. C.B. Fleet Holding Company, Inc., et al., New York County Index No. 105408/2005;
- (5) Neil and Holly Levine v. C.B. Fleet Holding Company, Inc., et al., New York County Index No. 402194/2006; and
- (6) Dolores and Hugh Fisher v. C.B. Fleet Holding Company, Inc., et al., New York County Index No. 402513/2006.

- (a) depositions of the plaintiffs shall be completed on or before October 13, 2006;
- (b) depositions of non-party witnesses, defendant witnesses and fact discovery shall be completed on or before December 20, 2006;
- (c) plaintiff expert disclosure and reports shall be served on or before January 17, 2007; and
- (d) defendant expert disclosures and reports shall be served on or before February 19, 2007 for general expert disclosure and reports and March 5, 2007 for case specific expert disclosures and reports.

2. In each NYSFPSPL action filed after January 1, 2006:

- (a) Within five (5) days of filing C.B. Fleet Company, Inc.'s Answers to the Complaint, C.B. Fleet will serve discovery demands and demands for interrogatories upon plaintiff(s)' counsel. Plaintiff(s) shall respond to such demands within thirty (30) days.
- (b) the deposition(s) of the plaintiff(s) shall be completed within ninety days (90) days of receipt of plaintiff(s)' discovery and interrogatory responses;
- (c) Independent Medical Examinations shall be noticed by defendants within sixty (60) days of plaintiff(s)' deposition;
- (d) the depositions of non-party witnesses shall be completed within sixty (60) days after completion of plaintiff(s)' deposition(s);
- (e) plaintiff(s) expert disclosure and reports shall be served within thirty (30) days of the completion of fact depositions; and

- (f) defendant general expert disclosures and reports shall be served within thirty (30) days of receipt of plaintiff(s') expert disclosure and case specific expert disclosures and reports shall be served within forty-five (45) days of receipt of plaintiff(s') expert disclosure.
- (g) Requests to adjourn dates/extension time periods set forth herein of depositions or other discovery, ~~shall not be unreasonably refused and adjournments~~ will be granted by the Court ^{only} for good cause shown.

3. The parties contemplate conferring and submitting to the Court further and additional Case Management Orders to address the scope of expert discovery and to address other issues which may arise as this litigation progresses. The parties reserve the right to readdress any provision of this Case Management Order with the Court as the litigation proceeds.

The Court may modify or supplement this Case Management Order sua sponte.

VI. Caption Of Cases

1. Every document filed in these coordinated proceedings shall bear a caption as follows:

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK
 ----- X
 IN RE: FLEET PHOSPHO-SODA PRODUCTS :
 LIABILITY LITIGATION : Index No. ~~560001/05~~
 ----- X

2. If a document relates to all the FPSPL cases, the following will be added to the caption:

THIS DOCUMENT APPLIES TO ALL CASES

3. If, instead, a document relates to one or more specific cases but not to all cases, the specific caption(s) for the cases to which the paper is applicable will be added as follows:

[NAME(S) OF PLAINTIFF(S),	:	
	:	
Plaintiff(s),	:	Index No. [XXXXXX/200X]
	:	
-against-	:	<u>[TITLE OF DOCUMENT]</u>
	:	
[NAME(S) OF DEFENDANT(S),	:	
	:	
Defendant(s).	:	
-----	:	X

VII. Filing of Papers


1. When a paper has general application to all the NYSFPSPL cases, the caption (as set forth in paragraph VI. 1. above) shall so indicate and shall bear index number **Index No. 560001/05**, and the Clerk of New York County shall file such a paper in the Master File number and no other copies of the papers need to be filed with the Court except courtesy copies to be supplied to Judge Friedman's chambers. Any document so filed shall be deemed to have been filed in each case to which this Order applies and shall constitute part of the record of each such case.

2. When paper is applicable only to an individual case, the attorney submitting such paper for filing shall caption the paper (as set forth in paragraph VI. 2. above) to indicate the case(s) to which it is applicable. The Clerk of New York County shall not file such a paper in the NYSFPSPL Master File, rather, after receipt by the Clerk, the Clerk shall file the original in the first captioned individual case file under the appropriate index number and shall

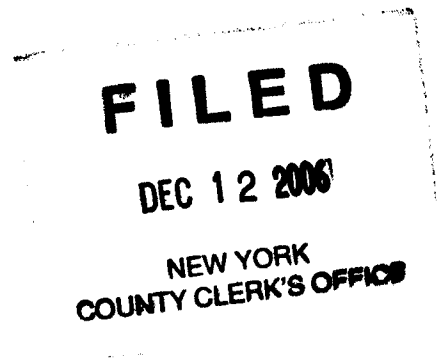
file copies of the paper in all other case files to which it applies. It shall be the responsibility of the attorney submitting the paper for filing to supply the County Clerk with sufficient copies of any such paper to facilitate compliance with the directions of this paragraph.

Dated: New York, New York
November 29, 2006
nunc pro tunc as of
August 8, 2006

SO ORDERED:



HON. MARCY S. FRIEDMAN



**EXHIBIT A: NYSFPSPL/CF ACTIONS PENDING AS OF AUGUST 2,
2006**

- (3) Frances and Benjamin Goldwasser v. C.B. Fleet Holding Company, Inc., et al.,
New York County Index No. 117698/2004;
- (4) Goldie and Joseph Guttman v. C.B. Fleet Holding Company, Inc., et al.,
New York County Index No. 402192/2006;
- (5) Ana and Alan Krieger v. C.B. Fleet Holding Company, Inc., et al.,
New York County Index No. 110380/2005;
- (6) Veronica Lake v. C.B. Fleet Holding Company, Inc., et al.,
New York County Index No. 105408/2005;
- (7) Neil and Holly Levine v. C.B. Fleet Holding Company, Inc., et al.,
New York County Index No. 402194/2006;(6) Dolores and Hugh Fisher v.
C.B. Fleet Holding Company, Inc., et al.,
New York County Index No. 402513/2006;

- (7) Arthur and Sandra Marks v. C.B. Fleet Holding Company, Inc., et al.,
New York County Index No. 108628/2006;

- (8) Lucinda and Earnest Paragalo v. C.B. Fleet Holding Company, Inc., et al.,
New York County Index No. 106980/2006; and

- (9) Shirley and Donald Hurlburt v. C.B. Fleet Holding Company, Inc., et al.,
New York County Index No. 109597/2006.⁵

⁵ Defendant's answer in NYS court or removal to federal court due on August 17, 2006.