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SUPREME COURT OF THE STATE OF NEW YORK
ALL COUNTIES OF NEW YORK

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IN RE: NEW YORK STATE LATEX GLOVE PRODUCTS LIABILITY
LITIGATION

X

THIS DOCUMENT APPLIES TO ALL LATEX GLOVE
PRODUCTS LIABILITY ACTIONS FILED IN
THE SUPREME COURT OF THE STATE OF NEW YORK

Index No. 751000/99

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CASE MANAGEMENT ORDER NO. 9

**Revisions to Discovery
and Scheduling Order
Governing Merits Discovery**

This Case Management Order serves to revise, amend and supersede portions of Case Management Order No. 2 ("CMO No. 2"), entered on September 8, 2000, Case Management Order No. 3 ("CMO No. 3"), entered on November 3, 2000, Case Management Order No. 4 ("CMO No. 4"), entered on January 16, 2001, and Case Management Order No. 6, entered on April 27, 2001 and Case Management Order No. 8 ("CMO No. 8") entered by the Court on July 6, 2001. Except for the revisions noted herein, all other provisions of CMO No. 2, CMO No. 3, CMO No. 4, CMO No. 6 and CMO No. 8 remain in full force and effect, and serve to control the procedures regarding the remaining discovery to be conducted in this litigation on the issues of liability, causation, damages and defenses ("merits discovery"). Along with CMO Nos. 2, 3, 4, 6, and 8 this CMO is intended to follow-up and finalize discovery activity which took place during the first phase, consisting of product identification discovery, which is the

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subject of New York State Court Latex Glove Products Liability Litigation Case Management Order No. 1 ("CMO No. 1"), entered on February 4, 2000.

Depositions

1. The depositions of the plaintiffs in the remaining Schedule A Cases, excluding the cases referenced in paragraph 6 of CMO No. 2 and paragraph 2 of CMO No. 4, shall be completed on or before **December 5, 2001**. This paragraph serves to revise, amend and supersede paragraph 1 of CMO No. 8, paragraph 1 of CMO No. 6, paragraph 4 of CMO No. 4, paragraph 8 of CMO No. 3 and paragraph 20 of CMO No. 2.

Expert Discovery

2. (a) On or before **September 26, 2001**, in each of the cases referenced in paragraph 6 of CMO No. 3, plaintiffs shall make available and present their previously designated expert witnesses for depositions. This paragraph serves to revise, amend and supersede paragraph 2(a) of CMO No. 8, paragraph 2(a) of CMO No. 6, paragraph 5(a) of CMO No. 4, paragraph 9(a) of CMO No. 3 and paragraph 29(c) of CMO No. 2.

(b) Defendants in each of the cases referenced in paragraph 6 of CMO No. 3 shall designate their experts no later than **September 5, 2001**, by serving upon plaintiff and each co-defendant in the case, by facsimile or by personal service, an expert's report and expert material for each expert in the case. On or before **November 5, 2001**, defendants in the aforementioned cases shall make available and present their designated expert witnesses for depositions. This paragraph serves to revise, amend and supersede paragraph 2(b) of CMO No. 8, paragraph 2(b) of CMO No. 6, paragraph 5(b) of CMO No. 4, paragraph 9(b) of CMO No. 3 and paragraph 29(d) of CMO No. 2.

(c) Plaintiffs in all the remaining Schedule A Cases, excluding the cases referenced in paragraph 6 of CMO No. 3 and paragraph 2 herein, shall designate all of their experts no later than **December 26, 2001**, by serving upon each defendant in the case, by facsimile or by personal service, an expert's report and expert material for each expert in the case. On or before **March 6, 2002**, plaintiffs in the aforementioned cases shall make available and present their designated expert witnesses for depositions. This paragraph serves to revise, amend and supersede paragraph 2(c) of CMO No. 8, paragraph 2(c) of CMO No. 6, paragraph 5(c) of CMO No. 4, paragraph 9(c) of CMO No. 3 and paragraph 29(e) of CMO No. 2.

(d) Defendants in all the remaining Schedule A Cases, excluding the cases referenced in paragraph 6 of CMO No. 3 and paragraph 2 herein, shall designate their experts no later than **January 28, 2002**, by serving upon plaintiff and each co-defendant in the case, by facsimile or by personal service, an expert's report and expert material for each expert in the case. On or before **April 8, 2002**, defendants in the aforementioned cases shall make available and present their designated expert witnesses for depositions. This paragraph serves to revise, amend and supersede paragraph 2(d) of CMO No. 8, paragraph 2(d) of CMO No. 6, paragraph 5(d) of CMO No. 4, paragraph 9(d) of CMO No. 3 and paragraph 29(f) of CMO No. 2.

(e) Any party may serve, upon plaintiff and each co-defendant in the case, supplemental expert report(s) from an expert previously designated as provided for in the CPLR. On or before **September 21, 2001**, any party in the cases referenced in paragraph 6 of CMO No. 3 shall submit its supplemental expert reports. On or before **February 11, 2002**, any party in all the remaining Schedule A Cases, excluding the cases referenced in paragraph 6 of CMO No. 3 and paragraph 2 of CMO No. 4, shall submit his, her or its supplemental expert

reports. If the expert for whom the supplemental expert report has been served has already been deposed, he or she may be deposed a second time only on new material contained within such supplemental expert report. Said deposition shall taken place within 15 days of the receipt of the supplemental expert report. If the expert has not been previously deposed in this litigation, he or she may be deposed within 20 days of receipt of the supplemental expert report. This paragraph serves to revise, amend and supersede paragraph 2(e) of CMO No. 8, paragraph 5(e) of CMO No. 4, paragraph 9(e) of CMO No. 3 and paragraph 29(g) of CMO No. 2.

Discovery Deadline, Pleadings and Pretrial Matters

3. Motions relating to appropriate trial venue for any of the cases selected by the parties and referenced in paragraph 6 of CMO No. 3 shall be made returnable **September 19, 2001** and the Court shall hear oral arguments on any such motions on **September 28, 2001**. This paragraph serves to revise, amend and supersede paragraph 3 of CMO No. 8 and No. 7, paragraph 3 of CMO No. 6, paragraph 6 of CMO No. 4, paragraph 10 of CMO No. 3 and paragraph 35 of CMO No. 2.

4. On **September 26, 2001**, plaintiffs shall file Notes of Issue in the cases selected by the parties and referenced in paragraph 6 of CMO No. 3. This paragraph serves to revise, amend and supersede and paragraph 4 of CMO No. 8, paragraph 4 of CMO No. 6, paragraph 7 of CMO No. 4, paragraph 11 of CMO No. 3 and paragraph 36 of CMO No. 2.

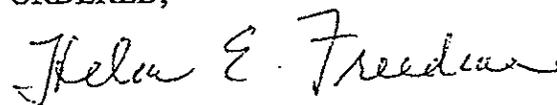
5. On **October 5, 2001**, the Court shall set trial dates, beginning with **November 30, 2001**, for those of the cases selected by the parties and referenced in paragraph 6 of CMO No. 3 that are properly venued for trial in New York County or in any county under this Court's jurisdiction. This paragraph serves to revise, amend and supersede paragraph 5 of CMO

No. 8, paragraph 5 of CMO No. 6, paragraph 8 of CMO No. 4, paragraph 12 of CMO No. 3 and paragraph 37 of CMO No. 2.

6. On March 27, 2002, plaintiffs shall file Notes of Issue in the remaining Schedule A Cases, excluding the cases referenced in paragraph 6 of CMO No. 3 and paragraph 2 of CMO No. 4. This paragraph serves to revise, amend and supersede paragraph 6 of CMO No. 8, paragraph 6 of CMO No. 6, paragraph 9 of CMO No. 4, paragraph 13 of CMO No. 3 and paragraph 38 of CMO No. 2.

Dated: August 1st, 2001

SO ORDERED,



JUSTICE HELEN E. FREEDMAN