

STATE OF NEW YORK
SUPREME COURT: EIGHTH JUDICIAL DISTRICT

In Re: Eighth Judicial District
Asbestos Litigation

**EIGHTH JUDICIAL
DISTRICT ASBESTOS
LITIGATION**

This Document Applies to:

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

TROY SHANE SMITH and ALLYSON JANE
SMITH,

Plaintiffs,

**FIRST AMENDED DISCOVERY
AND TRIAL ORDER**

**Erie County
Index No. 814633/2023**

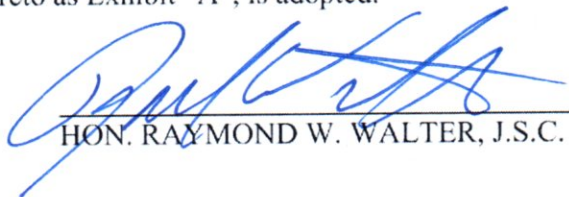
v.

84 LUMBER COMPANY; et al,

Defendants.

Upon the Court Conference held herein on April 15, 2024 and upon agreement of counsel for plaintiff and defendants, it is hereby

Ordered that jury selection is scheduled for April 22, 2025 and the discovery and trial submission schedule annexed hereto as Exhibit "A", is adopted.


HON. RAYMOND W. WALTER, J.S.C.

Dated: 5/8/24

ENTER:

TROY SHANE SMITH and ALLYSON JANE SMITH v. 84 LUMBER COMPANY; et al.

Eighth Judicial District Asbestos Litigation -Erie County Index No. 814633/2023

Pretrial Conferences Scheduled for: **06/17/2024**
08/19/2024
11/14/2024
02/10/2025
03/17/2025
04/10/2025

Final Settlement conference
Jury Selection Scheduled for: **April 22, 2025**

DISCOVERY AND TRIAL SUBMISSION SCHEDULE

- COMPLETE Plaintiffs to serve responses to defendants’ standard interrogatories and document requests and defendants’ standard Article 16 interrogatories and document requests; provide copies of all medical records and reports, personnel, union, earnings, social security, worker’s compensation and tax documents in his/her/their possession; and provide updated written authorizations to defendants, to the extent not already provided.
- COMPLETE Plaintiff to provide names and addresses of all product identification witnesses known to date, together with a list of the expected jobsites and defendants about which each witness is expected to offer testimony. Plaintiff may amend and/or supplement this list at any time prior to the date on which Plaintiff is to respond to Defendants’ product identification letters.
- 05/27/2024 Defendants to serve non-repetitive, supplemental interrogatories upon plaintiff; and to serve any objections to plaintiff’s interrogatory responses. Plaintiff to serve responses to defendants’ non-repetitive, supplemental interrogatories within 60 days following service.
- 05/27/2024 Plaintiff to serve Proof of Claim information to the extent any Proofs of Claim have been filed (or to be provided within 30 days of submission to Trust.).
- 05/27/2024 Plaintiff to serve non-repetitive, supplemental interrogatories. Defendants to serve responses to plaintiff’s non-repetitive, supplemental interrogatories within 60 days following service
- 06/03/2024 Date of commencement of depositions of product identification witnesses.
- 06/17/2024 **Pretrial conference.**
- 07/31/2024 All depositions to be completed with the exception of depositions of defendants, spouse/surviving spouse, children/distributees, and/or estate representative, which may be conducted until jury selection.
- COMPLETE Plaintiff to provide all original medical materials to defendants. Plaintiff undertakes the duty to locate and obtain possession of all original medical

materials and to provide them to the defendants.

- 08/15/2024 Plaintiff to serve medical expert designations and information.
- 08/19/2024 Pretrial conference.**
- 09/10/2024 Last day for defendants to forward product and/or premises identification letters.
- 09/10/2024 Last day for defendants to file third party actions.
- 09/24/2024 Plaintiff to serve and file notes of issue and statements of readiness and to serve on each defendant a settlement demand.
- 09/24/2024 Last day for plaintiff to respond to product and/or premises identification letters.
- 10/28/2024 Plaintiff to serve non-medical expert designations and information.
- 11/18/2024 Pretrial conference.**
- 12/17/2024 Defendants to serve summary judgment motions.
- 01/07/2025 Plaintiff to serve responses to summary judgment motions.
- 01/21/2025 Defendants to serve replies to plaintiff's responses to summary judgment motions.
- 02/10/2025 Pretrial conference and argument of summary judgment motions.**
- 02/13/2025 Plaintiff to serve trial witness and exhibit lists.
- 03/11/2025 Defendants to serve expert designations and information, trial witness and exhibit lists.
- 03/13/2025 Defense Liaison Counsel to coordinate with Defense Coordinating Counsel, Plaintiffs Counsel and Court to confirm trial date as scheduled or reschedule to the next available date, with coordination with remaining defense counsel, based on the continued double booking of cases for the week of trial.
- 03/17/2025 Pretrial conference.**
- 03/18/2025 Plaintiffs and defendants to serve motions in limine.
- 04/01/2025 Plaintiffs and defendants to serve opposition to all motions *in limine*.
- 04/01/2025 Plaintiffs and all remaining defendants to send the Court a brief CONFIDENTIAL statement or memorandum no later than five (5) days prior to the final settlement pretrial conference, which should include the following:

Counsel for plaintiffs are to provide the Court with an ex parte confidential Settlement Memorandum containing: 1) background of case and of plaintiff or plaintiff's decedent, 2) list of remaining defendants, 3) allegations of exposure, factual predicate for liability for each defendant, 4) the amount of each demand and 5) the law firm's settlement history or range with cases involving a similar fact pattern.

Counsel for each remaining defendant(s) is to provide the Court with an ex parte confidential Settlement Memorandum containing: 1) the amount offered for settlement, 2) factual predicate or defenses to be set forth preventing or limiting settlement, and 3) the law firm's settlement history or range with cases involving a similar fact pattern and defenses.

These memoranda are for in-camera ex parte review by the Court only and should be sent to the attention of Matthew S. Szalkowski, Esq. at mszalkow@nycourts.gov

- 04/10/2025** Final settlement conference. (time to be noticed by the court)
- 04/15/2025 Plaintiff and defendants to serve counter submissions and to serve all replies to motions *in limine*.
- 04/22/2025** Jury Selection and argument of motions *in limine*.

Exhibit A