

**In the Court of Common Pleas
Cuyahoga County, Ohio**

Special Docket 73958
Cuyahoga County Asbestos Cases

**ORDER OF THE COURT REGARDING PRIORITIZATION OF NON-
MALIGNANT CASES FOR TRIAL**

The Court, having held extensive hearings during the past two years concerning the prioritization of cases on its docket; the Court, having held extensive hearings and received extensive briefing on the applicability of Am. Sub. H.B. 292 to existing non-malignant cases; and the Court, having heard and considered multiple proposals concerning the scheduling and resolution of non-malignant cases:

NOW, THEREFORE, it is ORDERED that all non-malignant cases that do not meet the medical criteria set forth in this Order, and that are not bound by the medical criteria of Am. Sub. H.B. 292 shall be placed on an Inactive Docket subject to the terms and conditions provided hereinafter.

No non-malignant cases shall be placed on or remain on the active case docket unless the plaintiff provides:

1. A statement from a Board Certified Internist, Occupational Medical Physician, Pulmonologist or a treating physician that the plaintiff has an asbestos-related non-malignant disease, or in a death claim that the decedent had an asbestos-related, non-malignant disease that caused or substantially contributed to the decedent's death, and either:
 - a. A chest x-ray reading of 2/1 or higher on the ILO scale as read by a certified B-reader; or
 - b. A pulmonary function test showing that the plaintiff suffers from a restrictive defect consistent with an asbestos-related disease, according to criteria published by the American Medical Association or the American Thoracic Society.

OR

2. A statement by a Board-Certified Pathologist that more than one representative section of lung tissue otherwise uninvolved with any other process (e.g. cancer, emphysema) demonstrates a pattern of peribronchial scarring in the presence of characteristic asbestos bodies, and also that

there is no other more likely explanation for the presence of fibrosis, and evidence of a pulmonary function test showing that the plaintiff suffers from a restrictive defect consistent with an asbestos-related disease, according to criteria published by the American Medical Association or the American Thoracic Society.

Placement on the Inactive Docket shall not affect in any way workers' compensation claims, bankruptcy claims, claims filed against Trusts or similar entities established to pay asbestos claims, or any other type of claim submitted outside of the tort system. Such claims shall be governed by the terms of the Trust, applicable workers' compensation law, or other applicable law, rule or regulation without regard to the placement on the Inactive Docket.

Any case placed on the Inactive Docket shall not be eligible for grouping under the Case Management Order. The purpose of placement on the Inactive Docket shall be to allow the Court and parties to focus the limited resources of the Court on the work-up and trial of the more serious cases as defined in this Order and other Orders of this Court.

Any plaintiff whose case has been placed on the Inactive Docket shall have the right to petition the Court for good cause shown for placement on the Court's regular, active docket. No new or additional filing fee shall be required in the event of re-entry onto the regular, active docket.

This is not a final appealable order.

IT IS SO ORDERED.

Judge Harry A. Hanna
Judge Leo M. Spellacy
Justice Francis E. Sweeney

March 22, 2006