

In Re: Lead Paint Litigation
Hon. Linda K. Lager

Excerpts from LPL Case Management Order No. 2
Discovery Procedures:

I. Subject Matter

1. This case management order regarding discovery procedures shall apply to all civil matters in the Superior Court of the State of Connecticut in which a claim of damages resulting from lead paint exposure has been or is made. Discovery procedures not specifically addressed in this order shall be governed by the Rules of Practice of the Connecticut Superior Court. Discovery procedures in declaratory judgment actions related to an underlying civil case seeking damages resulting from lead paint exposure shall be governed by the Rules of Practice of the Connecticut Superior Court.

2. This case management order supplements LPL Case Management Order No. 1 dated November 27, 1996. This case management order may be supplemented or superseded by additional case management orders as deemed required by the undersigned presiding judge, issued after notice and hearing.

3. Nothing contained in this order shall cause pending cases with assigned trial dates or weeks certain to be delayed or postponed.

4. This order does not preclude other forms of discovery consistent with the Rules of Practice and Connecticut law.

II. Court Approved Non-Standard Written Discovery

1. In all civil matters in the Superior Court of the State of Connecticut in which a claim of damages resulting from lead paint exposure has been or is made, the initial interrogatories and requests served shall be limited to the following court approved non-standard written discovery: "Plaintiff's Court-Approved Requests for Disclosure and Production Directed to Defendants in Lead Paint Cases" and "Defendant's Court-Approved Non-Standard Interrogatories and Requests to Produce Directed to the Plaintiffs." As the court has resolved objections to the non-standard written discovery after notice and hearing, there shall be no further objections allowed.

2. Copies of the court approved non-standard written discovery will be made available for inspection and copying pursuant to Conn. Gen. Stat. § 52-259 in the following locations: J.D. Clerks' Offices, law libraries, the Connecticut State Library

and the Administrative Office of the Superior Court, Technical Assistance Unit, 225 Spring Street, 4th Floor, Wethersfield, CT (1-860-563-9435).

3. The court approved non-standard written discovery may be served, in accordance with Connecticut Practice Book §§ 10-12 through 10-17, in all pending cases within 30 days of this order.
4. In newly filed cases, the court approved non-standard written discovery shall be served within 30 days of the filing of an appearance on behalf of each defendant, in accordance with Connecticut Practice Book §§ 10-12 through 10-17.
5. The court approved non-standard written discovery shall be answered as provided in part III of this order.
6. No motion for permission to file additional or different non-standard interrogatories and requests for production shall be filed in these cases at this stage. In any pending case where there is a motion for permission to file non-standard interrogatories or requests for production, such motion is denied. Supplemental written discovery, not repetitive of the court approved written discovery, may be filed as provided in parts V and VIII of this order.

III. Responses to Court Approved Non-Standard Written Discovery

1. Written answers to interrogatories under oath and responses to requests to produce shall be served within 60 days after the date of certification of service, in accordance with Connecticut Practice Book §§ 10-12 through 10-17.
2. The parties may agree to an additional 30 days for responses without court approval. No further extensions of time shall be allowed.
3. Parties are expected to comply with the continuing duty to disclose set forth in Connecticut Practice Book § 13-15.

Motions to compel or for order of compliance, pursuant to Connecticut Practice Book § 13-14, should be filed and claimed for the short calendar list in the judicial district in which the case is pending. No motion to compel or for order of compliance, pursuant to Connecticut Practice Book § 13-14, shall be placed on the short calendar list until an affidavit by the moving party is filed certifying that bona fide attempts have been made to resolve the problem and accommodate the non-moving party and that the parties have been unable to reach an accord. The affidavit shall recite the nature of the problem, the date, time and place of any conference held to resolve it, and the names of all persons participating, or the reasons why a conference was not held.

IV. Disclosure of Plaintiff's Expert

1. Within 180 days after the date of certification of service of plaintiff's answers to defendant's court approved non-standard written discovery, the plaintiff shall disclose the following regarding any expert(s) the plaintiff expects to call as a witness at trial regarding the minor plaintiff's neurological and/or neuropsychological condition as it relates to lead paint exposure: the name of the expert, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, a summary of the grounds for the expert's opinion, and any report prepared by the expert.

2. Plaintiff shall serve this expert disclosure in accordance with Connecticut Practice Book §§10-12 through 10-17. The plaintiff is expected to comply with the continuing duty to disclose set forth in Connecticut Practice Book § 13-15.

3. A plaintiff may move to extend the time period provided in IV.1 above only within 30 days after the date of certification of service of plaintiff's answers to defendant's court approved non-standard written discovery. Any such motion should be claimed for the "LPL Short Calendar" and shall be granted only for good cause shown.

4. Motions to compel or for order of compliance regarding plaintiff's expert disclosure should be claimed for the "LPL Short Calendar."

V. Defendant's Supplemental Written Discovery

1. Any defendant may serve supplemental non-standard interrogatories and requests for production upon the plaintiff, without prior court approval, after the disclosure of plaintiff's expert pursuant to part IV of this order.

2. Any such supplemental written discovery shall be served within 30 days after the date of certification of service of plaintiff's expert disclosure, in accordance with Connecticut Practice Book §§ 10-12 through 10-17.

3. Objections to any such supplemental written discovery shall comply with the provisions of Connecticut Practice Book §§ 13-8 and 13-10. In cases with an assigned trial date, such objections should be filed and claimed in the judicial district in which the case is pending. In cases without an assigned trial date, such objections should be claimed for the "LPL Short Calendar."

4. Responses to the defendant's supplemental written discovery shall be served within 30 days after the date of certification of service. The parties may agree to an additional 30 days for responses without court approval. Any request for an extension of time because there is no agreement or for a time period longer than that provided in this order should be filed and claimed for the short calendar in the

judicial district in which the case is pending and shall be granted only for good cause shown.

Motions to compel or for order of compliance, pursuant to Connecticut Practice Book § 13-14, should be filed and claimed for the short calendar list in the judicial district in which the case is pending. No motion to compel or for order of compliance, pursuant to Connecticut Practice Book § 13-14, shall be placed on the short calendar list until an affidavit by the moving party is filed certifying that bona fide attempts have been made to resolve the problem and accommodate the non-moving party and that the parties have been unable to reach an accord. The affidavit shall recite the nature of the problem, the date, time and place of any conference held to resolve it, and the names of all persons participating, or the reasons why a conference was not held.

VI. Examination of Minor Plaintiff

1. Any examination of the minor plaintiff pursuant to the provisions of Connecticut Practice Book § 13-11 shall be scheduled within 120 days after the date of certification of service of plaintiff's responses to defendant's supplemental written discovery.
2. Objections to any such examination should be filed and claimed in the judicial district in which the case is pending as provided in the Connecticut Practice Book § 13-11. Upon agreement of the parties, such objections may be claimed for the LPL short calendar.

VII. Disclosure of Defendant's Expert

1. Within 180 days after the date of certification of service of plaintiff's answers to defendant's supplemental written discovery, the defendant shall disclose the following regarding any expert(s) the defendant expects to call as a witness at trial regarding the minor plaintiff's neurological and/or neuropsychological condition as it relates to lead paint exposure: the name of the expert, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, a summary of the grounds for the expert's opinion, and any report prepared by the expert.
2. Defendant shall serve this expert disclosure in accordance with Connecticut Practice Book §§ 10-12 through 10-17. The defendant is expected to comply with the continuing duty to disclose set forth in Connecticut Practice Book § 13-15.
3. A defendant may move to extend the time period provided in VII.1 above only within 30 days after the date of certification of service of plaintiff's answers to defendant's supplemental written discovery. Any such motion should be claimed for the "LPL Short Calendar" and shall be granted only for good cause shown.

4. Motions to compel or for order of compliance regarding defendant's expert disclosure should be claimed for the "LPL Short Calendar."

VIII. Plaintiff's Supplemental Written Discovery

1. The plaintiff may serve supplemental non-standard interrogatories and requests for production upon any defendant, without prior court approval, after the disclosure of defendant's expert pursuant to part VII of this order.

2. Any such supplemental written discovery shall be served within 30 days after the date of certification of service of defendant's expert disclosure, in accordance with Connecticut Practice Book §§ 10-12 through 10-17.

3. Objections to any such supplemental written discovery shall comply with the provisions of Connecticut Practice Book §§ 13-8 and 13-10. In cases with an assigned trial date, such objections should be filed and claimed in the judicial district in which the case is pending. In cases without an assigned trial date, such objections should be claimed for the "LPL Short Calendar."

4. Responses to the plaintiff's supplemental written discovery shall be served within 30 days after the date of certification of service. The parties may agree to an additional 30 days for responses without court approval. Any request for an extension of time because there is no agreement or for a time period longer than that provided in this order should be filed and claimed for the short calendar in the judicial district in which the case is pending and shall be granted only for good cause shown.

5. Motions to compel or for order of compliance, pursuant to Connecticut Practice Book § 13-14, should be filed and claimed for the short calendar list in the judicial district in which the case is pending. No motion to compel or for order of compliance, pursuant to Connecticut Practice Book § 13-14, shall be placed on the short calendar list until an affidavit by the moving party is filed certifying that bona fide attempts have been made to resolve the problem and accommodate the non-moving party and that the parties have been unable to reach an accord. The affidavit shall recite the nature of the problem, the date, time and place of any conference held to resolve it, and the names of all persons participating, or the reasons why a conference was not held.

IT IS SO ORDERED.

LINDA K. LAGER, PRESIDING JUDGE
FOR LEAD PAINT LITIGATION

Entered this 11th day of March, 1997 at New Haven, Connecticut.