

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

IN RE RED DUST CLAIMS

MASTER CASE NO.
SX-15-CV-000620

**NOTICE OF FILING OF
DEFENDANTS' PROPOSED DISCOVERY ORDER**

Please take notice of the filing of Defendants' Proposed Discovery Order in connection with the Joint Report to Court Re: Discovery Order, filed on February 5, 2018.

Date: February 9, 2018

Respectfully Submitted,



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Certificate of Service

I hereby certify that on this 9th day of February, 2018, I served a copy of the foregoing by mail and email, as agreed by the parties, on:

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DEFENDANTS' PROPOSED DISCOVERY ORDER

Defendants respectfully submit the following proposed Order which is designed to accommodate the various suggested resolutions of the discovery issues presented in the Joint Report to Court Re: Discovery Order:

IT IS HEREBY ORDERED AS FOLLOWS:

1. All individual Plaintiffs shall complete the Questionnaire agreed to by the parties within 200 days of this Order. Plaintiffs' counsel shall produce each completed Questionnaire to Defendants' counsel within ten days of its execution, rather than holding the Questionnaires until the final due date.

2. ___ [INCLUDE] ___ [DO NOT INCLUDE]

Any Plaintiff who does not return the Questionnaire within the 200 day deadline is required to show cause why he or she did not do so.

3. [PLEASE INCLUDE ONE ALTERNATIVE IN THIS PARAGRAPH 3, AND CROSS OUT THE ALTERNATIVE WHICH THE COURT ***DOES NOT*** ORDER]

[ALTERNATIVE ONE] Thereafter, discovery shall commence pursuant to the V.I.R.Civ.P. as to all Plaintiffs and Defendants.

[OR]

[ALTERNATIVE TWO] Thereafter, a neutral computer program shall be used to randomly order all Plaintiffs who have returned Questionnaires. As to the first [130] OR [] OR [100] Plaintiffs on the list (from different family groups), discovery will proceed as follows: Defendants will be entitled to obtain medical records and conduct one hour depositions of each Plaintiff. If any Plaintiffs from this group are dismissed for any reason, additional Plaintiffs will be added, in the order they appear on the initial random list, to keep the number moving through the discovery process at [130] OR [] OR [100].

a. ___ [INCLUDE] ___ [DO NOT INCLUDE]

In addition, within 90 days after the completion of the Questionnaires, each will be required to offer evidence of the medical efficacy of his/her case before proceeding further, comprised specifically of the following:

- i. Declaration(s) or affidavit(s) by a qualified medical expert regarding each individual Plaintiff's alleged injuries, which shall affirm the chemicals or toxic substances to which that Plaintiff was exposed; the date or dates, place, duration, and dose of exposure to each; the method of exposure to each; the resulting personal injuries (including onset, duration, and severity); the personal injuries which

the Plaintiff has an increased chance of developing; the basis for the expert's opinion that such injuries were caused by (or are likely to be caused by) the claimed exposure); and

- ii. With respect to any real and personal property damage claims, each Plaintiff shall provide specific information concerning his or her real and personal property that was allegedly damaged.

4. When the above has been completed, the parties and the Court shall meet to discuss next steps to trial. If ALTERNATIVE TWO, above, is chosen, then for any Plaintiffs moving forward for dispositive motions or trial, a full deposition may be required, as well as treating (and expert) physician depositions, medical examinations, and property inspections.

5. [PLEASE INCLUDE ONE ALTERNATIVE IN THIS PARAGRAPH 5, AND CROSS OUT THE TWO ALTERNATIVES WHICH THE COURT **DOES NOT** ORDER]

[ALTERNATIVE ONE] All parties shall mutually exchange Rule 26(a) disclosures within 45 days of entry of this Order.

[OR]

[ALTERNATIVE TWO] Plaintiffs shall provide the information required by Rule 26(a) with their Questionnaires. Defendants shall make their Rule 26(a) disclosures within 45 days of receiving 50-60% of the completed Questionnaires.

[OR]

[ALTERNATIVE THREE] Plaintiffs shall provide the information required by Rule 26(a) with their Questionnaires. Defendants shall produce Rule 26(a) disclosures within 60 days of entry of this Order.

SO ORDERED.

Dated: February____, 2018

Douglas A. Brady
Judge of the Superior Court