



**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA**

**IN RE: ASBESTOS PERSONAL  
INJURY LITIGATION**

**Master File:  
Civil Action No. 03-C-9600**

**THIS MAY 1, 2020 REPORT, APPLIES TO ALL  
JUNE 15, 2020 ASBESTOS TRIALS**

We are now in May, and we have all had so many different directions and deadlines placed upon us that many of us are wondering why we chose this profession. You need to have some clarification on the deadlines I have imposed upon you, and this communication is my effort to do that.

1. June 15, 2020, asbestos trials. On June 11, you were to have settlement conferences in Morgantown. You are no longer required to be physically present for those conferences. You are encouraged to continue your telephonic negotiations and to settle as many cases as you possibly can.
2. The rejection by the West Virginia asbestos defendants' counsel group to my proposal for a different type of jury selection, combined with April 22, 2020, Administrative Order from the Supreme Court of Appeals of West Virginia, prohibiting magistrates from infringing upon "civil rules," eliminates my proposal for selecting a jury without in-person voir dire.
3. I had one response to my recent request for additional questions to be added to the questionnaire we now use. Scott Segal asked that I add to the questionnaire: "Could you please explain how the COVID-19 pandemic has affected you and your family?" and "The cases you are going to be asked to decide are very serious and important to both sides. With that in mind, do you believe any of your experiences with the COVID- 19 pandemic might affect your ability to be fair to both sides If you are chosen to citizen juror?" I will probably change the wording a little -but they are timely questions that do not favor either side and provide needed information for both sides and will be added to the questionnaire. Since you will now be permitted voir dire, there is no longer any need to add any more questions to help you in the jury selection process. As you have done in the past, your voir dire will be based upon the answers to the questions in the questionnaire.
4. Up until the Chief Justice informs us that a June 15, 2020 trial is prohibited, you are to continue to prepare for trial. The Kanawha County Circuit Clerk is to continue to follow the standard procedure for the selection of 75 prospective jurors. I will add to the questionnaire covering letter

answers to a message informing the prospective jurors that we have their health and well-being in mind as we select the jury and they will never have to come within 6 feet of a fellow juror, the clerk, the judge, the witness, or any attorney. I have a plan in mind that will permit voir dire of prospective jurors without violating the separation of people by at least 6 feet. If I see that the trial can take place, I will give you the specifics of how that will happen. And it will change our usual practice during the first week we are together.

5. If the June 15, trial is postponed, the trial will be ordered to begin on July 27 and last through August 7, 2020. I have arbitrarily chosen that date because I now realize that I could never get an agreement among all the attorneys on a period in which they did not have a conflict. I have conflicts that I will give up, and some of you may have conflicts that you now have to give up. Therefore, if you have a scheduling conflict that you cannot change, you will be required to have another member of your firm prepared for the trials. The deadlines previously imposed for the June 15 trial remain and can only be changed by timely request to this court. I will make myself available by telephone or in-person for any attorneys who want to discuss settlement of any particular case. Understandably, that means that the attorneys on both sides of the case desire a discussion concerning settlement.

6. If we are prohibited from having a trial on July 27, 2020, then the June 15 trials will be moved to the already set asbestos trial dates that begin on October 5, 2020. Again, all deadlines established for the June 15, 2020 trial will apply to the October 5, 2020 trial date unless changed by timely request to this court. The previously scheduled October 5, 2020 trial groups will then be moved to February 8, 2021, and we will continue in that manner – in other words, each trial group will be advanced to the next scheduled trial group date.

7. AND NOW FOR MORE UP-TO-THE-MINUTE NEWS Today, April 30, after I prepared this report, I was asked not to have these trials in Charleston but have them in Wheeling or some other location. Apparently, the large number of coronavirus cases in Kanawha County (160 vs. 27 in Ohio County) is the motivating factor for this request. This decision to ask us to change our trial location is unfortunate because it is based upon faulty information by those making this request who were led to believe that these trials would be bringing together a large group of attorneys and prospective jurors in the courtroom, as is the regular practice in these asbestos personal injury trials. Just the opposite is true.

The June 15, 2020 trial will not be bringing in a large number of prospective jurors, or attorneys in the courtroom. There will never be a large number of attorneys in the courtroom and in the selection of the jury -that will end with six or seven jurors being selected- there will never be more than ten prospective jurors in the courtroom at one time. The potential Kanawha County jurors will be informed that they will always be kept 6 feet apart, wear masks and gloves, and all witnesses and attorneys will also be kept 6 feet apart.

If this trial cannot be held in June, it is probable that an unknown number of the living plaintiffs' suffering from mesothelioma- who will testify in the June trial- will never have a chance to tell their story because they will not be living when the next trial is scheduled in October 2020. That is a tragedy that should not come to pass.

Unless the Supreme Court prohibits us from having a trial in June, we will have a trial somewhere, someplace. It is not guaranteed at this late hour that I can move it to Ohio County. However, you need to continue your preparation for trial. I will let you know as quickly as I find out whether we will remain in Kanawha County or have to find some other venue.

I deeply regret all of this, but it is all beyond our control. We will do the very best we can to honor our constitutional requirements that the "courts of this state shall be open, and every person, for any injury done to him, in his person, property or reputation, shall have remedy by due course of law."

**Dated this 1<sup>st</sup> day of May, 2020.**

**/s/ Ronald E. Wilson**  
**Ronald E. Wilson, Judge**