

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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IN RE: NEW YORK CITY ASBESTOS LITIGATION

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RE: BELLUCK & FOX PLAINTIFFS IN
APRIL 2010 IN EXTREMIS CASES :

Plaintiffs, :

-against-

REICHHOLD CHEMICALS, INC. a/k/a
Reichhold, Inc., et al.,
Defendants. :

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Index No. 40000/88

**RECOMMENDATION OF
THE SPECIAL MASTER**

This Recommendation follows numerous in-person and telephone conferences with Michael Sena, counsel for Reichhold Chemicals, Inc. a/k/a Reichhold Inc. (“Reichhold”), and counsel for the Plaintiff, Jordan Fox. It should be noted that, at various times, the Special Master directed Mr. Sena to comply with standard NYCAL discovery and to produce a witness or witnesses for deposition, including on April 5, April 6, May 18, and June 16, 2010. These conferences included those that Mr. Sena attended personally as well as the May 18th conference where another attorney from Mr. Sena’s law office appeared on behalf of Reichhold. Further, counsel appeared before the Hon. Sherry Klein Heitler on June 1, 2010, wherein the Court directed the parties to reach an agreement on discovery, to commence the depositions, and, if no agreement could be reached, to seek the intervention of the Special Master to ensure that Reichhold complied with discovery.

To date, Reichhold has failed to produce any further discovery to Plaintiff. Specifically, counsel for Reichhold has refused to respond to basic NYCAL discovery, which is court-ordered, on the erroneous basis that he does not believe there is identification of his client. As I instructed Mr. Sena, the compliance with standard NYCAL discovery is not optional nor is it contingent on defense counsel's opinion as to whether his client had been sufficiently identified.

Therefore, it is directed that Reichhold comply with the standard NYCAL discovery requests within three days of this Order, and to produce this discovery in advance of the deposition(s) of Reichhold's corporate representative as follows:

- 1) Produce Attachment 1's with all the subparts answered for each and every product manufactured or sold by Reichhold that contained asbestos.
- 2) Produce all exhibits from the deposition of John Oldham, taken on August 25, 2009 in Raleigh, North Carolina, for the case of Butler v. Union Carbide Corporation, et al., Superior Court of Morgan County, State of Georgia, File No.: 2008CA114.
- 3) Identify and produce all documents for any Workers' Compensation claims that relate to pre-1970 exposure.
- 4) Provide substantive responses to Interrogatories 7-10, 29, 69, and 70.
- 5) Provide substantive responses and all responsive documents to Requests for Production 5-8, 11-13, 15-18, 21, 25-8, 32, and 35.

Reichhold shall produce the person(s) most knowledgeable regarding Reichhold's manufacture, supply, distribution, use, installation, construction, sale, production, marketing, labeling, testing and/or research of asbestos-containing products, including but not limited to

phenolic molding compounds, as well as those matters referred to in Schedule "A" (attached to the April 26, 2010 Notice of Examination Before Trial), NYCAL Case Management Order, and in the Plaintiffs' First Standard Set of Liability Interrogatories and Request for Production of Documents by **June 30, 2010**.

Dated: June 17, 2010

RESPECTFULLY SUBMITTED:

/s/

Laraine Pacheco
Special Master