

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

Excerpts from LPL Case Management Order No. 2 (as amended 11/20/2014)

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 is made and to any declaratory judgment action related to an underlying civil case seeking damages resulting from lead paint exposure [hereafter "lead paint actions"]. Discovery procedures not specifically addressed in this order shall be governed by the Rules of Practice of the Connecticut Superior Court. In lead paint actions assigned to an Individual Calendar (IndiCal) docket, scheduling orders may be entered that supersede or supplement this order.

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 This case management order may be supplemented or superseded by additional case management orders as deemed required by the undersigned presiding judge.

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

4. This order does not preclude other forms of discovery consistent with the Rules of Practice and Connecticut law. This order does not preclude court-ordered modifications to the discovery procedures in any lead paint action assigned to an Individual Calendar (IndiCal) docket.

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). Copies of the non-standard written discovery are available at the following web links: http://www.jud.ct.gov/external/super/Standorders/Civil/LPL_Plaintiffs.pdf and http://www.jud.ct.gov/external/super/Standorders/Civil/LPL_Defendants.pdf

3. 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.

4. The court approved non-standard written discovery shall be answered as provided in part III 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.

4. 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 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 nonstandard written discovery. Any such motion shall be granted only for good cause shown. The requirements of ¶¶ 1, 2 and 3 may be modified by any scheduling order issued by an Individual Calendar judge.

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.

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.

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.

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.

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 shall be granted only for good cause shown.

4. The requirements of ¶¶ 1, 2 and 3 may be modified by an scheduling order issued by an Individual Calendar judge.

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.

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.

6. The requirements of ¶¶ 1-5 may be modified by any scheduling order issued by an Individual Calendar judge.

IX. Superseding Order

This order supersedes any other LPL standing orders previously entered including, but not limited to, LPL Case Management Order No. 2, dated March 11, 1997 as amended on July 15, 1997.

IT IS SO ORDERED.

LINDA K. LAGER, PRESIDING JUDGE
FOR LEAD PAINT LITIGATION

Entered this 20th day of November, 2014 at New Haven, Connecticut.