

11/28/2017  
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Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Ed Smith  
Case Number: AC 17-0694

CLERK OF THE SUPREME COURT  
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

IN RE ASBESTOS LITIGATION,  
  
*Consolidated Cases.*

Cause No. AC 17-0694

ORDER ESTABLISHING  
THE ASBESTOS CLAIMS COURT  
AND CONSOLIDATING CASES

In the aftermath of the W.R. Grace federal bankruptcy proceedings, the Court Administrator for the State of Montana Judicial Branch has identified at least 540 pending asbestos claim cases in the district courts. Considering that and other circumstances, this Court has determined there exists sufficient need to implement the provisions of the Asbestos Claims Court Act codified at §§ 3-20-101 through -105, MCA. In particular, the Court has considered the need of all parties to have asbestos-related claims timely resolved, the extraordinary complexity and cost of these cases, and the enormous detrimental impact on the resources of Montana district courts if required to litigate these cases on an individual basis.

ACCORDINGLY, THE COURT HEREBY ESTABLISHES THE ASBESTOS CLAIMS COURT. District Court Judge Amy Eddy is appointed as the Asbestos Claims Judge, for purposes of pretrial proceedings only. The Court Administrator will appoint a Clerk for the Asbestos Claims Court.

Filing through Montana Courts E-Filing is mandatory for all filings with the Asbestos Claims Court. Filings in this matter will be facilitated by the case management system of the Clerk of the Montana Supreme Court. All filings with the Asbestos Claims Court are considered filings in a separate court and are to be accessed through and maintained by the Clerk of the Asbestos Claims Court and the office of Court Administrator, and are not part of the Montana Supreme Court caseload or the responsibility of the Clerk of the Montana Supreme Court, although the file stamp of that office will display on documents.

Pursuant to the authority granted by the Asbestos Claims Court Act and M. R. Civ. P. 42, the cases involving asbestos-related claims identified on Exhibit A

attached hereto are hereby consolidated into the above-captioned matter for pretrial purposes only. As consolidation is for pretrial purposes only, no right of judicial substitution exists under § 3-1-804, MCA. Should any individual case ultimately proceed to trial, it will be tried in the county and before the district court having jurisdiction at the time of consolidation, unless the Legislature fully funds the operation of the Asbestos Claims Court. If the Asbestos Claims Court is fully funded by the Legislature, then all provisions of the Asbestos Claims Court Act may be implemented at that time.

Within 30 days of the date of this Order, each attorney for one or more parties in any of the cases listed on Exhibit A, attached hereto, is directed to e-file a notice of appearance in the Asbestos Claims Court. In the notice of appearance, counsel must list the county and cause number of each case in which that counsel is appearing. In addition, counsel must provide a “lead party” name to be used by the Asbestos Claims Court for the entire set of cases in which that attorney represents a party—for example, “*Smith et al. v. W.R. Grace.*”

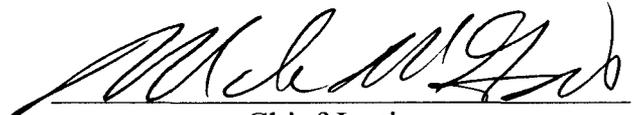
In addition, any attorney who represents a party in a case filed in a Montana district court involving an asbestos-related claim and not listed in Exhibit A is directed to file, within 30 days of the date of this Order, a notice of appearance in the Asbestos Claims Court. In the notice of appearance, counsel must list the county and cause number of the case in which that counsel is appearing. In addition, counsel must provide a “lead party” name to be used by the Asbestos Claims Court for the entire set of cases in which that attorney represents a party—for example, “*Smith et al. v. W.R. Grace.*”

With the exception of the notices of appearances referenced above and service of process and filing of the pleadings identified in M. R. Civ. P. 7(a), all further action in the cases identified on Exhibit A, attached hereto, is STAYED pending further ruling by the Asbestos Claims Judge.

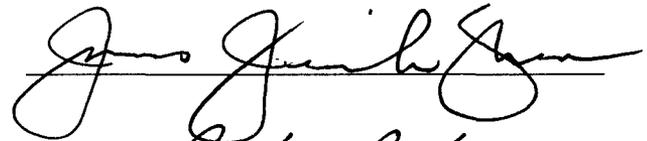
The Clerk of the Montana Supreme Court is directed to provide a copy of this Order and the attached Exhibit A to each attorney listed as counsel of record in any of the cases identified in Exhibit A. The Clerk is also directed to provide a copy of this Order to the Honorable Amy Eddy, to the Court Administrator’s Office, to each District Judge for the

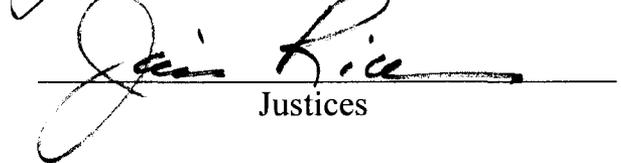
State of Montana, to each Clerk of District Court for the State of Montana, to the Montana Secretary of State, to the Code Commissioner, and to the State Bar of Montana with the request that this Order be published on the State Bar's website and distributed electronically to the Bar membership.

DATED this 28<sup>th</sup> day of November, 2017.

  
Chief Justice


  
  
Justices