**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF OHIO**
**EASTERN DIVISION**

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| In re: WELDING FUME PRODUCTS LIABILITY LITIGATION | Case No. 1:03-CV-17000 |
| This Document Relates to: | MDL Docket No. 1535 |
| *Ernest Ray v. Lincoln Electric Co., et al., Case No. 1:04 cv 18252* | JUDGE KATHLEEN O'MALLEY |

**CASE MANAGEMENT ORDER**

IT IS HEREBY ORDERED that the following schedule shall apply to the preparation and trial of the above mentioned case:

1. Plaintiff may file an Amended Complaint, reinstituting claims against previously dismissed peripheral defendants, on or before May 27, 2009. Prior to, or contemporaneously with, that filing, Plaintiff shall file an application to the Court with notice to all defendants, including the Peripheral Defendant(s) to be joined, that comports with the Peripheral Defendant Order (D.C. Docket No. 1824). Plaintiff must otherwise seek leave of Court.

2. Plaintiff may serve up to 50 case specific interrogatories (including subparts) on each Defendant. Additional interrogatories shall not be permitted except with leave of the Court for good cause shown.

3. Defendants shall serve responses to Plaintiff's written discovery requests within 45 days from the date of service.

4. Plaintiff shall serve responses to Defendants' outstanding written discovery requests within 45 days from the date of service. Defendants shall not be permitted to serve additional interrogatories except with leave of the Court for good cause shown.

5. The parties agree to notify each other immediately about any documents obtained

from third parties through a release executed by plaintiffs and to produce those documents within 5 business days of receipt.

6. The parties shall exchange lists of known fact witnesses to include name, address and a brief description of facts known on or before July 10, 2009.

7. Plaintiff shall disclose the case-specific and core experts expected to testify in these cases pursuant to Rule 26(a)(2)(A) on or before July 27, 2009, and shall provide Rule 26(a)(2) reports for such experts expected to testify on or before August 24, 2009.

8. Defendants shall disclose case-specific and core experts expected to testify in these cases pursuant to Rule 26(a)(2)(A) on or before September 4, 2009 and shall provide Rule 26(a)(2) reports for such experts expected to testify on or before September 30, 2009.

9. To the extent either party intends to rely upon a core expert who does not provide case-specific opinions, the opposing party shall be permitted to re-depose that expert only if the expert has submitted a supplemental report with new core opinions or has reviewed additional materials in support of his or her existing core opinions. Any such deposition will be limited in scope to the expert's new core opinions and/or the additional materials reviewed by the expert. If a core expert intends to offer (i) opinions with respect to a specific named defendant or (ii) opinions concerning or evaluations of specific documents that the expert has not previously offered in a report or deposition testimony, the expert shall disclose such opinions or evaluations in a supplemental report and be subject to deposition on such supplemental opinions. The parties shall agree on the length of any such deposition depending on the new material to be covered, and, if they are unable to reach agreement, shall address any disputes with the Special Master prior to the deposition. To the extent either party intends to rely upon a case-specific expert who has previously been deposed on "core" issues, the opposing party shall be permitted to re-depose

that expert on "core" issues only if the expert has submitted a supplemental report with new core opinions or has reviewed additional materials in support of his or her existing core opinions.

10. In the event that the Ray case does not proceed to trial in January, 2010, following the selection of a new trial date, any party seeking additional or supplemental discovery will do so only by agreement or upon motion to the Court.

11. Provided that the *Ousley* case is dismissed on or before October 26, 2009, the deadlines in paragraphs 12-20 of this CMO shall apply. Otherwise, the deadlines set forth in paragraphs 12-20 shall be continued until such time as they may be reset by the Court in accordance with the trial date selected for this case.

12. On or before November 2, 2009, the parties shall file their dispositive motions and any *Daubert* motions regarding case-specific experts.

13. Oppositions to any dispositive motions and any *Daubert* motions will be due on November 16, 2009 or within 10 days of the filing of any such motion (whichever is earlier).

14. Reply briefs to any dispositive motions and any *Daubert* motions will be due on November 23, 2009 or within 7 days of the filing of any opposition (whichever is earlier).

15. The parties shall file *motions in limine* by November 9, 2009.

16. The parties shall file oppositions to *motions in limine* by November 16, 2009.

17. With respect to motions filed by any party that are similar in any way to motions previously ruled upon by this Court in any case on MDL Docket No. 1535, the moving party shall make its best effort to disclose to the Court and all parties, on the face of the motion, any and all previous rulings by this Court on said similar motions. The moving party shall make such a disclosure by identifying the Court's previous rulings by reference to orders on this Court's docket, or if there is no written order by this Court, by page and line of a transcript.

18. The parties shall exchange exhibit and witness lists and deposition designations by December 1, 2009.

19. Objections and Responses to any exhibit and witness lists and deposition designations will be due by December 12, 2009.

20. The Court shall conduct a hearing on any dispositive motion, *Daubert* motions, or other pretrial motions filed as to case-specific experts on January 11 and January 12, 2010.

21. The trial for the above mentioned cases shall commence on January 25, 2010.

**IT IS SO ORDERED.**

KATHLEEN MCDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE