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

**IN RE: WELDING FUME PRODUCTS
LIABILITY LITIGATION**

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:
: **Case No. 1:03-CV-17000**
: **(MDL Docket No. 1535)**
:
: **JUDGE O'MALLEY**
:
: **ORDER**
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On February 13-15, 2006, the Court held hearings on various motions. This Order documents some of the rulings made during that hearing. For the reasons stated on the record, and for the additional reasons stated below, the Court rules as follows.

- Plaintiffs' Motion for Inquiry Into Disclosure of Documents Filed Under Seal (docket no. 1605) is **GRANTED IN PART**. Defendants shall submit to the Special Master letters from all those counsel who received the Plaintiffs' Sanctions Response (docket no. 1581), indicating: (1) whether they personally released (either to the press or any go-between) the Plaintiffs' Sanctions Response; and (2) if not, the results of an inquiry of their clients whether any client released the Plaintiffs' Sanctions Response.
- Defendants' Motion to Lift Seal on Plaintiffs' Response Brief (docket no. 1618) is **DENIED as moot**, in light of the unauthorized disclosure of the Response Brief, and press coverage thereof, which has already occurred.
- Defendants' Objection to Special Master's Ruling on Plaintiffs' Motion to Compel Discovery of Joint Defense and Related Agreements (docket no. 1487) is **OVERRULED**. However, the Court **holds in abeyance** the Special Master's ruling; specifically, the Court will order the defendants

to produce the redacted Joint Defense Agreements only as follows: (1) production to the plaintiffs will be ordered if and when the issue regarding the potential for bias or prejudice of a witness, as identified in the Special Master's ruling, becomes ripe; and (2) production to a mediator will be ordered if this case is referred to a mediator for settlement.

- Plaintiffs' Motion to Amend Complaint Related to All Welding Fume MDL Plaintiffs (docket no. 1513) is **GRANTED in part**. Plaintiffs have leave to file an amended master complaint, but not the one that has been proposed. Plaintiffs and defendants shall confer to determine various issues (e.g., choice of law, causes of action recognized by each state) and plaintiffs shall modify the proposed amended master complaint accordingly.
- Plaintiffs' Motion to Compel Discovery of Documents, & for Evidentiary Ruling re: Relationships between Airco/BOC, and other Defendants (docket no. 1493), and Plaintiffs' Motion for Various MDL Discovery Orders (docket no. 1598) are both **DENIED without prejudice**. The parties reported that the discovery issues raised in these motions have either been resolved by the Special Master or are subject to continuing negotiation between the parties.
- Plaintiffs' Motion for an Order Voluntarily Dismissing Plaintiff Without Prejudice, Landry v. Nichols Wire, Inc., Case No. 03-CV-17016 (docket no. 15), is **GRANTED**.
- Motion for an Order Voluntarily Dismissing Plaintiff With Prejudice, Morgan v. Lincoln Electric Co., Case No. 04 (docket no. 84), is **GRANTED**.

IT IS SO ORDERED.

/s/ Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

DATED: March 9, 2006