

in this MDL proceeding have, shortly before their trial was scheduled to begin, filed motions seeking to avoid or postpone their trials. These motions came after all parties spent substantial amounts of time and money preparing to litigate the cases before the undersigned.¹ Arguing that these plaintiffs caused defendants needlessly to suffer “enormous and unjustifiable expenses” for trial preparation, defendants earlier asked this Court to require plaintiffs “to pay defendants’ fees and costs for any future trial candidates that plaintiffs decide not to pursue after defendants have begun affirmative discovery.”² The Court declined to enter the requested Order, but concluded that defendants had a point:

While the Court agrees that some steps must be taken to avoid similar circumstances in the future and that, at some point, sanctions in the form of cost shifting might be appropriately imposed on a plaintiff and/or his counsel, defendants’ current proposal goes too far. Instead, in a future Order, the Court will impose case management obligations designed to avoid unnecessary cost or prejudice to defendants, by minimizing similar surprise revelations deep in the discovery process.

Peabody v. Airco, Inc., case no. 05-CV-17678 (N.D. Ohio July 31, 2006) (docket no. 26 at 4).

The additional case management obligations to which the Court was referring are as follows. For each of the 100 cases designated with this Order, counsel for the plaintiff will scan carefully his client’s medical records to determine whether those records reveal any issues suggesting that pursuit of the case to trial might be unwarranted. Counsel’s medical records review will include a comparison of those records to his client’s sworn fact sheet. Examples of issues that plaintiff’s counsel should examine carefully include: (1) possible drug or alcohol abuse; (2) any other medical

¹ See docket no. 25 in *Peabody v. Airco, Inc.*, case no. 05-CV-17678 (N.D. Ohio) (defendants’ reply brief regarding motion for discovery order, citing the *Peabody*, *Morgan*, and *Landry* cases).

² *Id.* at 2.

conditions, or exposures to toxins, that could cause symptoms similar to those allegedly caused by the welding fume exposure; (3) known genetic or familial susceptibility to movement disorders; (4) serious discrepancies between the medical records and the fact sheet; and/or (5) suggestions of excessive exaggeration or dishonesty.³

Following this medical records review, counsel for the plaintiff will (again) interview his client carefully to obtain information bearing on whether pursuit of the case to trial might be unwarranted; this interview must include an explanation to the client that making false statements under oath can carry substantial personal penalties, both monetary and immuring.

After plaintiff's counsel in each case has undertaken the review of medical records and client interview discussed above, plaintiff's counsel will either: (1) submit a letter to defense counsel certifying he has completed this process and believes in good faith that he and his client will pursue the matter to trial; or (2) move to dismiss his case or to withdraw his representation. Plaintiff's counsel shall send these certification letters to defense counsel, or move to dismiss or withdraw, within 120 days of the date that the client's medical-records requests are submitted.

After this process has had sufficient time to unfold, the Court will designate 15 cases within

³ That a given plaintiff may have any of these issues, of course, does not mean he may not proceed to trial. The point is that plaintiffs' counsel's decision to pursue the matter to trial should be fully informed as early as possible, and the disclosure of all relevant information to defendants should occur, to the extent possible, before depositions begin. Further, the Court is not requiring plaintiffs' counsel to *guarantee* there will be no late surprises or client revelations during the discovery process, but the Court is requiring plaintiffs' counsel to make a substantial effort early on to achieve this goal.

this 100-case batch for full, case-specific discovery.⁴ The Court directs the parties to inform the Court when it appears the time for this designation is ripe.

As noted in the *Case Administration Order*, it is the Court's intention to put the 100 cases designated on the attached chart into a trial-ready posture as soon as reasonably possible, so that the cases may be set for trial in this Court or the transferor courts for final resolution.

IT IS SO ORDERED.

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

DATED: August 28, 2006

⁴ Full case-specific discovery means, at this juncture, discovery related to: (1) all fact witnesses; (2) the plaintiff's diagnosing doctor; and (3) the doctor who performs the independent medical examination for defendants. The Court will discuss with the parties the scheduling of other expert discovery and other pretrial matters at the future status conference mentioned in the language quoted above from the *Case Administration Order*.

Sorted by plaintiff's counsel, then primary state of exposure.

NO.	PLAINTIFF	MDL CASE NUMBER	PLAINTIFF'S COUNSEL	STATE*	DIAGNOSES	TRANSFEROR FEDERAL DISTRICT COURT
1	Alley, Albert G.	1:05-18885	Barrett Law Office	AR	Manganism, Neuropathy	E.D. Ark.
2	McClure, Donald R.	1:05-18007	Barrett Law Office	GA	Parkinson's Disease, Manganism	
3	Cook, Jack L.	1:05-19291	Barrett Law Office	IN	Parkinsonism	W.D. Ky.
4	Boling, Christopher G.	1:05-18857	Barrett Law Office	KY*	Parkinson's Disease, Manganism	W.D. Ky.
5	Swierczynski, Christopher	1:05-18853	Barrett Law Office	MI*	Manganism	W.D. Mich.
6	Toombs, Robert B.	1:05-19196	Barrett Law Office	MO	Manganism	D. Kan.
7	Miller, Michael J.	1:05-18596	Barrett Law Office	NE*	Manganism	
8	Graham, Alfred	1:05-19263	Barrett Law Office	NV	Manganism	
9	Chisholm, Thomas J. Jr.	1:05-18645	Barrett Law Office	TN	Manganism	M.D. Tenn.
10	Luiting, Gary J.	1:05-18008	Barrett Law Office	WI	Parkinson's Disease, Parkinsonism	
11	Cooley, Curtis D.	1:05-17734	Ciano & Goldwasser	IA	Manganism, Neuropathy	
12	Morgan, Michael L.	1:06-17141	Climaco Lefkowitz	CA	Parkinson's Disease, Parkinsonism	C.D. Cal.
13	Potter, George B.	1:05-17295	Climaco Lefkowitz	CO	Parkinson's Disease	
14	Wasson, William	1:04-18950	Climaco Lefkowitz	CT	Parkinson's Disease, Parkinsonism, Neuropathy	
15	Harp, Charles D.	1:05-17324	Climaco Lefkowitz	ID	Neuropathy	
16	Murphy, Robert T.	1:05-17330	Climaco Lefkowitz	IL	Parkinson's Disease	
17	Reynolds, Richard D.	1:03-17035	Climaco Lefkowitz	MA	Parkinson's Disease	
18	Andrade, Emanuel H.	1:05-17280	Climaco Lefkowitz	MN	Parkinsonism	
19	Dezell, Samuel V. Sr.	1:04-22635	Climaco Lefkowitz	MT	Parkinsonism, Manganism	
20	Kunkel, Fritz J.	1:05-18905	Climaco Lefkowitz	NC	Parkinson's Disease, Manganism	
21	Bisconti, Luigi	1:05-17287	Climaco Lefkowitz	NJ	Parkinson's Disease	

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22	Larter, James	1:05-17326	Climaco Lefkowitz	OH	Parkinson's Disease, Parkinsonism	
23	Osegueda, Ramon Sr.	1:05-17002	Climaco Lefkowitz	PA	Parkinson's Disease, Neuropathy	
24	Bradish, Thomas H.	1:05-17320	Climaco Lefkowitz	PA	Parkinson's Disease	
25	Peters, Clyde V.	1:05-17294	Climaco Lefkowitz	SC	Parkinson's Disease, Manganism	
26	Putnam, Donald C.	1:05-17296	Climaco Lefkowitz	SC	Parkinson's Disease	
27	Ore, John G.	1:04-18949	Climaco Lefkowitz	UT	Manganism	
28	Artis, Walter L.	1:05-18907	Climaco Lefkowitz	VA	Manganism	
29	Brown, James E. Sr.	1:05-18910	Climaco Lefkowitz	VA	Manganism	
30	Nelson, Fred W. Jr.	1:04-19195	Climaco Lefkowitz	WA	Parkinson's Disease, Parkinsonism	
31	Ballou, Charles	1:05-17289	Climaco Lefkowitz	WA*	Parkinson's Disease	
32	Hamilton, Lia	1:05-18677	Climaco Lefkowitz	WI	Parkinson's Disease, Parkinsonism, Manganism	
33	Osborne, James M.	1:05-18679	Climaco Lefkowitz	WI	Parkinson's Disease, Parkinsonism	
34	Davis, Peter D.	1:04-18536	Daniel E. Becnel, Jr.	AL	Parkinson's Disease, Parkinsonism, Manganism	N.D. Ala.
35	Bailey, Coleman Jr.	1:03-17116	Daniel E. Becnel, Jr.	AL	Neuropathy	
36	Marcum, Sam	1:03-18509	Daniel E. Becnel, Jr.	AL	Neuropathy	E.D. La.
37	Kindall, James E. Jr.	1:04-17266	Daniel E. Becnel, Jr.	CT	Parkinsonism	
38	Padilla, Robert J. (deceased)	1:04-18606	Daniel E. Becnel, Jr.	FL	Parkinson's Disease, Parkinsonism	
39	Coleman, Mark A.	1:03-17184	Daniel E. Becnel, Jr.	MS	Parkinsonism	
40	Haas, Donald E.	1:04-17228	Daniel E. Becnel, Jr.	TN	Parkinson's Disease, Parkinsonism	
41	Prentice, Ronnie	1:03-17027	Daniel E. Becnel, Jr.	TX	Manganism	

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42	Goin, Clarence V.	1:04-17227	Daniel E. Becnel, Jr.	TX	Parkinson's Disease	
43	Kinnaman, Gerald A.	1:04-17333	Daniel E. Becnel, Jr.	WA	Parkinson's Disease, Manganism, Neuropathy	
44	Chapman, Ronald A.	1:06-17197	Greene Broillet	CA	Manganism	C.D. Cal.
45	Hudnall, Morris L.	1:05-18787	Kelley & Ferraro	IN	Neuropathy	
46	Skowronski, Thomas	1:05-18681	Kelley & Ferraro	WI	Manganism	
47	Peterson, Bruce H.	1:06-17074	Lieff Cabraser	CA	Parkinson's Disease, Parkinsonism	C.D. Cal.
48	McGowen, Brian M.	1:06-17242	Lopez Hodes	ME	Parkinson's Disease, Parkinsonism	D. Me.
49	Wilkins, Stanley L.	1:05-18876	Martin & Kieklak	AR	Manganism	E.D. Ark.
50	Paccio, Donald R.	1:05-19199	Martin & Kieklak	AR	Manganism, Neuropathy	W.D. Ark.
51	Bowen, Michael W.	1:05-18067	Martin & Kieklak	OK	Parkinsonism, Manganism, Neuropathy	
52	Storie, Leon	1:05-18104	Martin & Kieklak	OK	Parkinson's Disease, Manganism	
53	Qualls, Charles V.	1:05-18861	Martin & Kieklak	TX	Manganism	E.D. Ark.
54	Bougio, Phillip T.	1:05-18066	Martin & Kieklak	TX	Parkinson's Disease, Manganism	
55	Brown, Clarence Sr.	1:03-17270	Martzell & Bickford	LA	Parkinson's Disease	E.D. La.
56	Narcisse, August J.	1:03-17322	Martzell & Bickford	LA	Neuropathy	E.D. La.
57	Boudreaux, Roland J.	1:04-19125	Martzell & Bickford	LA	Manganism	E.D. La.
58	Krapfl, Arnold J.	1:04-18582	Michael J. Warner & Associates	IA	Parkinsonism, Manganism	S.D. Iowa
59	Ray, Ernest	1:04-18252	Motley Rice LLC	GA	Parkinson's Disease, Parkinsonism	
60	Coulter, Donnie	1:06-17072	Motley Rice, LLC	KY	Parkinsonism	
61	Richmond, Joe L.	1:05-19212	Odom & Elliott	AR	Manganism	W.D. Ark.
62	Chaney, Anthony P.	1:05-18856	Odom & Elliott	TN	Manganism	E.D. Ark.

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63	McPherson, Paul D.	1:05-19216	Ranier Gayle	LA	Manganism	E.D. La.
64	Backes, Edgar Jr.	1:03-17014	Robein, Urann & Lurye	LA	Manganism	E.D. La.
65	Dearman, Alvin Jr.	1:03-17165	Robein, Urann & Lurye	LA	Parkinsonism, Manganism	E.D. La.
66	Acosta, David	1:03-17178	Robein, Urann & Lurye	LA	Manganism, Neuropathy	E.D. La.
67	Williams, Artie	1:04-18986	Robein, Urann & Lurye	LA	Parkinson's Disease	M.D. La.
68	DiMartino, Carmine V.	1:05-17343	Singleton Law Firm	NY	Parkinson's Disease	W.D. La.
69	Dunaway, Troy D.	1:05-17657	Singleton Law Firm	VA	Manganism	E.D. Va.
70	Ezell, David P.	1:04-18544	The Kaiser Firm, LLP	AL	Parkinsonism	
71	Easley, Jerry	1:05-18845	The Kaiser Firm, LLP	AR	Neuropathy	
72	Sedig, Theodore L.	1:05-17117	The Kaiser Firm, LLP	AZ	Parkinson's Disease, Manganism	
73	Pruett, James R.	1:05-19230	The Kaiser Firm, LLP	AZ	Parkinson's Disease, Parkinsonism	
74	Recupero, Joseph	1:05-18726	The Kaiser Firm, LLP	CT	Parkinson's Disease	
75	Rankin, Donald K.	1:05-17724	The Kaiser Firm, LLP	FL	Parkinson's Disease	
76	Rush, Charles	1:05-18619	The Kaiser Firm, LLP	GA	Parkinson's Disease	
77	Prater, Raymond	1:05-18815	The Kaiser Firm, LLP	GA	Parkinson's Disease	
78	Schnoor, Donald E.	1:04-19104	The Kaiser Firm, LLP	IA	Parkinson's Disease	
79	Estevez, Francisco J.	1:05-18622	The Kaiser Firm, LLP	IL	Parkinson's Disease	
80	Sanders, Henry Jr.	1:04-17086	The Kaiser Firm, LLP	IN	Parkinson's Disease	
81	Sebastian, John	1:04-17130	The Kaiser Firm, LLP	IN	Parkinson's Disease, Manganism	
82	Baer, Joseph	1:04-17178	The Kaiser Firm, LLP	IN	Manganism	
83	Clay, William	1:06-17036	The Kaiser Firm, LLP	KS	Neuropathy	
84	Schisler, Charles R.	1:04-17024	The Kaiser Firm, LLP	MD	Parkinson's Disease	
85	Dyer, Claude	1:05-18633	The Kaiser Firm, LLP	MD	Parkinson's Disease	
86	Rutherford, Daniel G.	1:04-18557	The Kaiser Firm, LLP	MS	Parkinson's Disease, Manganism	
87	Powell, Nathaniel	1:06-17083	The Kaiser Firm, LLP	NC	Neuropathy	

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88	Sellers, Ralph D.	1:05-17755	The Kaiser Firm, LLP	NV	Neuropathy	
89	Eads, Clifford	1:06-17185	The Kaiser Firm, LLP	OK	Parkinson's Disease, Parkinsonism, Neuropathy	
90	Sealy, Kenneth	1:06-17092	The Kaiser Firm, LLP	PA	Parkinson's Disease	
91	Powell, Walter	1:05-18718	The Kaiser Firm, LLP	SC	Parkinson's Disease	
92	Ackerman, Charles G.	1:05-19285	The Kaiser Firm, LLP	SD	Parkinson's Disease	
93	Scoggins, David H.	1:05-17755	The Kaiser Firm, LLP	TN	Neuropathy	
94	Lawson, Ivar B. III	1:04-22663	The Kaiser Firm, LLP	TX	Manganism	E.D. La.
95	Seigrist, Benny R.	1:04-17301	The Kaiser Firm, LLP	TX	Manganism	
96	Edwards, Kenneth H.	1:05-17198	The Kaiser Firm, LLP	TX	Manganism	
97	Wilson, Calvin	1:05-17109	The Kaiser Firm, LLP	VA	Parkinson's Disease, Manganism	
98	Bass, Ester	1:05-18870	Thrash Law Firm	AR	Manganism	E.D. Ark.
99	Parker, Johnny D.	1:05-19200	Thrash Law Firm	AR	Manganism	W.D. Ark.
100	Buritz, David	1:04-17050	Vaughan Cascino Law Offices	IL	Parkinson's Disease, Parkinsonism	N.D. Ill.

* The state listed is the plaintiff's primary state of exposure, according to defendants' analysis.

If an asterisk appears, defendants could not determine the primary state of exposure, so the state listed is their present address.