

Effective 5/10/2016

78B-6-2007 Identification of additional or alternative asbestos trusts by defendant.

- (1) Not less than 90 days before trial, if a defendant identifies an asbestos trust claim not previously identified by the plaintiff that the defendant reasonably believes the plaintiff can file, the defendant shall meet and confer with plaintiff to discuss why defendant believes plaintiff has an additional asbestos trust claim. The defendant may move the court for an order to require the plaintiff to file the asbestos trust claim after the meeting. The defendant shall produce or describe the documentation it possesses or is aware of in support of the motion.
- (2) Within 10 days of receiving the defendant's motion under Subsection (1), the plaintiff shall, for each asbestos trust claim identified by the defendant, do one of the following:
 - (a) file the asbestos trust claim;
 - (b) file a written response with the court setting forth the reasons why there is insufficient evidence for the plaintiff to file the asbestos trust claim; or
 - (c) file a written response with the court requesting a determination that the plaintiff's expenses or attorney's fees and expenses to prepare and file the asbestos trust claim identified in the defendant's motion exceed the plaintiff's reasonably anticipated recovery from the trust.
- (3)
 - (a) If the court determines that there is a sufficient basis for the plaintiff to file the asbestos trust claim identified by the defendant, the court shall order the plaintiff to file the asbestos trust claim and shall stay the asbestos action until the plaintiff files the asbestos trust claim and provides all parties with all trust claims materials no later than 30 days before trial.
 - (b) If the court determines that the plaintiff's expenses or attorney's fees and expenses to prepare and file the asbestos trust claim identified in the defendant's motion exceed the plaintiff's reasonably anticipated recovery from the asbestos trust, the court shall stay the asbestos action until the plaintiff files with the court and provides all parties with a verified statement of the plaintiff's history of exposure, usage or other connection to asbestos covered by the asbestos trust.

Enacted by Chapter 385, 2016 General Session