



Ohio Revised Code

Section 2307.953 Motion to stay proceedings in asbestos tort action.

Effective: March 27, 2013

Legislation: House Bill 380 - 129th General Assembly

(A) Not less than seventy-five days prior to the commencement of trial, any defendant in an asbestos tort action may file a motion with the court, with notice to the claimant and to all of the parties in the action, for an order to stay the proceedings. A defendant's motion to stay the proceedings shall set forth credible evidence that demonstrates all of the following:

(1) The identities of all asbestos trusts not previously disclosed by the claimant pursuant to section 2307.952 of the Revised Code against which the claimant has not made any asbestos trust claims but against which the defendant in good faith believes the claimant may make a successful asbestos trust claim;

(2) The information that the defendant believes supports the additional asbestos trust claims described in division (A)(1) of this section;

(3) A description of the information sufficient to meet the asbestos trust claim requirements of the asbestos trusts described in division (A)(1) of this section.

(B) Notwithstanding any other provision in this section, if the claimant produces additional asbestos exposure information that supports the filing of an additional asbestos trust claim, the defendant may file a motion to stay the proceedings under division (A) of this section within seven days of receiving the additional asbestos exposure information.

(C)(1) Within fourteen days after the filing of the defendant's motion for an order to stay the proceedings under division (A) of this section, the claimant may do any of the following:

(a) File the asbestos trust claims with or submit them to the asbestos trusts identified in the defendant's motion for an order to stay the proceedings. The submission to the court and to all of the parties in the asbestos tort action of proof demonstrating that the asbestos trust claims identified in the defendant's motion to stay the proceedings have been filed with or submitted to the



appropriate asbestos trusts is dispositive of the defendant's motion for an order to stay the proceedings. Alternatively, the defendant may withdraw the motion brought under division (A) of this section.

(b) File with the court a response to the defendant's motion for an order to stay the proceedings requesting a determination by the court that the information supporting the asbestos trust claims against the asbestos trusts identified in the defendant's motion for an order to stay the proceedings should be modified prior to the filing of an asbestos trust claim with, or the submission of an asbestos trust claim to, an asbestos trust or that there is insufficient information to file or submit the asbestos trust claim identified in the defendant's motion for an order to stay the proceedings.

(c) File with the court a response to the defendant's motion for an order to stay the proceedings requesting a determination by the court that the claimant's or attorney's fees and expenses to prepare the asbestos claim form and file or submit the asbestos trust claim identified in the defendant's motion for an order to stay the proceedings exceed the claimant's reasonably anticipated recovery from the asbestos trust claim.

(2) A submission by the claimant under division (C)(1)(b) or (c) of this section does not constitute a waiver of the attorney-client privilege or work product privilege.

(D)(1) If the defendant has met its burden under division (A) of this section and if the claimant files a response pursuant to division (C)(1)(b) of this section, the court shall determine by a preponderance of the evidence if a successful asbestos trust claim could be submitted in good faith to each asbestos trust identified in the defendant's motion for an order to stay the proceedings brought under division (A) of this section. The claimant has the burden of proof, by a preponderance of the evidence, to demonstrate that the information set forth by the defendant pursuant to divisions (A)(2) and (3) of this section should be modified prior to the filing of an asbestos trust claim with, or the submission of an asbestos trust claim to, each asbestos trust identified in the defendant's motion or that the asbestos trust claim should not be filed with or submitted to the asbestos trust because a successful asbestos trust claim cannot be made in good faith.

(2) If the defendant files a motion to stay the proceedings and if the claimant files a response pursuant to division (C)(1)(c) of this section, the court shall determine if the claimant's or attorney's



fees and expenses to prepare the asbestos claim form and file or submit the asbestos trust claim identified in the defendant's motion for an order to stay the proceedings exceed the claimant's reasonably anticipated recovery from the asbestos trust claim. If the court determines that the claimant's or attorney's fees and expenses exceed the claimant's reasonably anticipated recovery from the asbestos trust claim, the court shall require the claimant to file with the court a verified statement of the claimant's exposure history to the asbestos products covered by that asbestos trust.

(E) If the court determines that there is a good faith basis for filing an asbestos trust claim with, or submitting an asbestos trust claim to, an asbestos trust identified in the defendant's motion for an order to stay the proceedings brought under division (A) of this section, the court shall stay the proceedings until the claimant files the asbestos trust claims with or submits them to the asbestos trusts identified in the defendant's motion for an order to stay the proceedings and has otherwise met the obligations set forth in this section and section 2307.952 of the Revised Code.