

SUPREME COURT OF THE STATE OF NEW YORK
ALL COUNTIES WITHIN THE STATE OF NEW YORK

-----X
: IN RE: STEAM PIPE EXPLOSION AT 41ST
: STREET AND LEXINGTON AVENUE

: *768000/08*
: Index No. ~~560001/08~~
: Part 52 (Justice Feinman)
: February 13, 2008

-----X
: **This Document Relates To:**

: All Cases
: -----X

~~JOINT PROPOSED~~ CASE MANAGEMENT ORDER NO. 1

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ALL COUNTIES WITHIN THE STATE OF NEW YORK

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768000/08

IN RE: STEAM PIPE EXPLOSION AT 41ST
STREET AND LEXINGTON AVENUE

: Index No. ~~560001708~~
:
: Part 52 (Justice Feinman)
:
: February __, 2008
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This Document Relates To:

All Cases

----- X

JOINT PROPOSED CASE MANAGEMENT ORDER NO. 1

WHEREAS, on July 18, 2007, there was a steam pipe explosion at the intersection of 41st Street and Lexington Avenue in Manhattan;

WHEREAS, on July 25, 2007, the Administrative Judge of the First Judicial District, the Honorable Jacqueline W. Silbermann, assigned all actions filed in New York County "arising out of or relating to the steam pipe explosion . . . whether the matters involve tort claims or not," to this Part;

WHEREAS, on September 27, 2007, Consolidated Edison Company of New York, Inc. and Consolidated Edison, Inc. (collectively, "Con Edison"), having been named as defendants in actions filed in New York County and Kings County, filed a motion before the Litigation Coordinating Panel (the "Panel") for an Order (1) coordinating for pre-trial purposes under a single Coordinating Justice in New York County (a) all actions pending against Con Edison arising out of or relating to the steam pipe explosion, and (b) any unknown or future actions arising out of or relating to the

steam pipe explosion, and (2) staying temporarily all actions arising out of or relating to the steam pipe explosion (the “Coordination Motion”);

WHEREAS, by Order dated October 9, 2007 and amended October 15, 2007, the Panel temporarily stayed all proceedings arising out of or relating to the steam pipe explosion:

WHEREAS, by agreement of certain plaintiffs dated October 23, 2007, plaintiffs in sixteen of the cases identified in the Coordination Motion “adopt[ed] and recognize[d]” the Document Demands served upon Con Edison by Plaintiffs Gregory McCullough (Kings County Index No. 29227/07) and Judith Bailey (Kings County Index No. 29226/07) on September 21, 2007 as constituting those Plaintiffs’ First Set of Document Demands to Defendant [Con Edison] (“Plaintiffs’ First Set of Document Demands”);

WHEREAS, by Order dated January 23, 2008 (the “Coordination Order”), the Panel granted Con Edison’s motion, ordering pre-trial coordination before a single Coordinating Justice in New York County of all actions arising out of or relating to the steam pipe explosion that have been filed or are hereafter filed in the Supreme Court of the State of New York (the “Coordinated Actions”);

WHEREAS, in the Coordination Order, the Panel continued the stay of all Coordinated Actions until 21 days after the issuance of the Coordination Order and expressly ordered that “[c]onduct of disclosure is reserved to and controlled by the Coordinating Justice appointed to preside over the coordinated proceedings [22 NYCRR § 202.69(c)(2)]”;

WHEREAS, by Order dated January 24, 2008, the Administrative Judge of the First Judicial District, the Honorable Jacqueline W. Silbermann, appointed this Justice as the Coordinating Justice for all Coordinated Actions;

WHEREAS, pursuant to the Coordination Order, and in order to promote judicial economy and avoid undue delay, the Court finds that it would be appropriate to provide for pre-trial coordination of all Coordinated Actions to assist the Court in bringing about a resolution of these cases in a fair and efficient manner;

IT IS HEREBY ORDERED THAT the following Case Management Order No. 1 (the "Case Management Order" or "CMO No. 1") shall govern all Coordinated Actions that have been or will be filed in, or transferred to, this Court pursuant to the Coordination Order:

I. Applicability of This Order

This Case Management Order shall apply automatically to all Coordinated Actions and to all other actions arising out of or relating to the steam pipe explosion at the intersection of 41st Street and Lexington Avenue that become a part of this Coordinated Proceeding (the "Coordinated Proceeding" or the "Litigation") by virtue of being filed in or transferred to this Court (collectively, the "Steam Pipe Explosion Cases").

II. Objectives

The objectives of this Case Management Order are to promote judicial economy, avoid duplicative pretrial discovery and motion practice, and bring about a resolution of the Steam Pipe Explosion Cases in a fair and efficient manner. In an effort to achieve these goals, this Case Management Order among other things (a) establishes general

procedures for the early stages of discovery and for other pretrial matters in the Steam Pipe Explosion Cases, which procedures shall be implemented through specific provisions set forth in subsequent CMOs; and (b) provides for the establishment of a Steering Committee of Plaintiffs' Counsel ("SCPC") to work with individual plaintiffs' counsel, on the one hand, and counsel for defendants Con Edison and the City of New York (the "City) (collectively, "Counsel for Defendants") on the other, in an effort to ensure that pre-trial discovery and motion practice will proceed in an organized and efficient manner. This CMO No. 1 anticipates and provides for the issuance of additional CMOs as the litigation progresses.

III. Master File, Case Files, and Captions

A. Master File and Case Files

1. Pursuant to the Coordination Order, the cases herein have been coordinated for pretrial proceedings, not consolidated. The Court hereby directs that a master file, known as In re: Steam Pipe Explosion at 41st Street and Lexington Avenue Master File (the "Steam Pipe Explosion Cases Master File"), Index No. 560001/08, shall be established (without fee) in the Office of the Clerk of New York County for all Steam Pipe Explosion Cases assigned to the undersigned. The original of this Order shall be filed by the County Clerk in the Steam Pipe Explosion Cases Master File, and a copy shall be deemed to be part of the record of each Coordinated Action. All subsequent entries on the Steam Pipe Explosion Cases Master File shall also be applicable to all of the Steam Pipe Explosion Cases.

2. A separate file shall also be maintained in the Office of the Clerk of New York County under a separate Index Number for each individual Steam Pipe

Explosion Case assigned to this Court, and entries shall be made therein in accordance with this Order and/or future CMOs.

B. Captions of Cases

1. Every document filed in the Coordinated Actions shall bear a caption as follows:

SUPREME COURT OF THE STATE OF NEW YORK
ALL COUNTIES WITHIN THE STATE OF NEW YORK
----- X
IN RE: STEAM PIPE EXPLOSION AT 41ST :
STREET AND LEXINGTON AVENUE : Index No. 560001/08
: Part 52 (Justice Feinman)
: [title of document]
: X
----- X

If a document relates to all of the Steam Pipe Explosion Cases, the following will be added to the caption:

----- X
This Document Applies to All Cases :
----- X

2. If, instead, a document relates to one or more specific cases but not to all Steam Pipe Explosion Cases, the specific caption(s) for the cases to which the document is applicable will be added to the caption above as follows:

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-----X
Plaintiff(s) name,           :
                             :
                             :
        -against-           :   Index No. [individual case number
                             :   or numbers]
                             :
Defendant(s) name           :
-----X
AND RELATED CASES (SEE APPENDIX) :
-----X

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IV. Plaintiffs' Liaison Counsel

A. Appointment of Plaintiffs' Liaison Counsel to act on behalf of plaintiffs' counsel will facilitate communications among the Court and counsel, minimize duplication of effort, help to coordinate joint positions, and provide for the efficient progress and control of this litigation. Plaintiffs' counsel have conferred and selected three counsel (two co-counsel from those representing plaintiffs who principally assert personal injury allegations and one counsel from those representing plaintiffs who principally assert non-personal injury allegations) to serve as Plaintiffs' Liaison Counsel. The Court approves the plaintiffs' selection of counsel to serve as Plaintiffs' Liaison Counsel. Subject to further Order of the Court effecting such changes as circumstances may require, Plaintiffs' Liaison Counsel shall be:

1. Kenneth P. Thompson, Esq.
 Thompson Wigdor & Gilly LLP
 350 Fifth Avenue, Suite 5720
 New York, New York 10118
 Phone: (212) 239-9292
 kthompson@twglawyers.com

2. Derek S. Sells, Esq.
The Cochran Firm
The Woolworth Building
233 Broadway, 5th Floor
New York, New York 10279
Phone: (212) 553-9000
DSells@cochranfirm.com
3. Robert Sheps, Esq.
Sheps Law Group, P.C.
35 Pinelawn Road
Suite 106 East
Melville, New York 11747
Phone: (631) 249-5600 ext. 1002
rsheps@shepslaw.com

B. Subject to the right of any party to present individual or divergent positions, Plaintiffs' Liaison Counsel are vested by the Court with the following responsibilities and duties:

1. to maintain and distribute to the Court, co-counsel, and Counsel for Defendants an up-to-date service list of all plaintiffs, plaintiffs' counsel, plaintiffs' counsel's email and mail addresses and telephone numbers, and the index number assigned to each individual action, including the date of the most recent revisions. Such distribution shall occur as set forth in Paragraph B of Section XII, infra. This service list will be amended to reflect the resolution of a case, the commencement of a new case, or the transfer of an existing case to or from this Court;
2. to arrange for the filing of Requests for Judicial Intervention, pursuant to Section XIV, infra, designating each case as a matter which should be assigned to the Steam Pipe Explosion Cases calendar of this Court;

3. to receive Orders, notices, correspondence, and telephone calls from the Court and the Clerk of the Court on matters of general applicability on behalf of all plaintiffs, and to notify other plaintiffs' counsel accordingly;

4. to maintain in conjunction with their accountants, records of receipts and disbursements advanced by members of the SCPC and received by the SCPC and report in writing to the SCPC concerning disbursements and receipts;

5. to act as spokespersons on behalf of plaintiffs at court conferences and hearings subject to the ability of the SCPC to designate a different spokesperson or spokespersons and the right of each party to present individual or divergent positions;

6. to communicate on behalf of the SCPC on procedural issues and substantive matters after consensus is reached by the SCPC as set forth in Section VI, infra;

7. to coordinate and communicate with Liaison Counsel for Defendants with respect to the matters addressed in this and future CMOs;

8. to perform such other administrative tasks as may be necessitated by this or future CMOs, by the agreement of the parties, or by Order of the Court.

C. Plaintiffs' Liaison Counsel shall not have the right to bind any party as to any matter without the consent of counsel for that party, except Plaintiffs' Liaison Counsel's own clients. Further, Plaintiffs' Liaison Counsel shall remain free to represent the interests and positions of their clients free of any claim (including without limitation any claim of conflict) arising from service as Plaintiffs' Liaison Counsel.

D. Plaintiffs' Liaison Counsel shall be reimbursed periodically but not less than every two months by counsel for all plaintiffs, pro rata (or if not pro rata, pursuant to

a written agreement among plaintiffs), for their necessary and reasonable expenses actually incurred in performing their tasks pursuant to this Order and shall keep records of such expenses in reasonable detail for examination by counsel for all plaintiffs.

V. Liaison Counsel for Defendants

A. Liaison Counsel for Defendants include respective counsel for Con Edison and the City as designated in Paragraphs B and C of this Section V, infra.

B. Liaison Counsel for Con Edison for purposes of communications with the Court, the Clerk of the Court, counsel for Plaintiffs (including Plaintiffs' Liaison Counsel and the SCPC), and counsel for the City is: Guy Miller Struve, Davis Polk & Wardwell, 450 Lexington Avenue, New York, New York 10017; Tel: 212-450-4192; guy.struve@dpw.com.

C. Liaison Counsel for the City for purposes of communications with the Court, the Clerk of the Court, counsel for plaintiffs (including Plaintiffs' Liaison Counsel and the SCPC), and counsel for Con Edison is: Christopher J. Murdoch, Assistant Corporation Counsel, 100 Church Street, New York, New York 10007; Tel: 212-788-0480; cmurdoch@law.nyc.gov.

VI. Steering Committee of Plaintiffs' Counsel

A. Appointment of a Steering Committee of Plaintiffs' Counsel ("SCPC") to act as set forth below will facilitate communications among the Court and counsel, minimize duplication of effort, foster the coordination of joint positions, and provide for the efficient progress and control of this litigation.

B. Plaintiffs' counsel have conferred and selected counsel to serve on the SCPC. The Court approves the plaintiffs' selection of counsel to serve on the SCPC.

The SCPC shall, subject to further Order of the Court effecting such changes as circumstances may require, be comprised of the following:

1. Kenneth P. Thompson, Esq.
Thompson Wigdor & Gilly LLP
350 Fifth Avenue, Suite 5720
New York, New York 10118
Phone: (212) 239-9292
kthompson@twglawyers.com
2. Derek S. Sells, Esq.
The Cochran Firm
The Woolworth Building
233 Broadway, 5th Floor
New York, New York 10279
Phone: (212) 553-9000
DSells@cochranfirm.com
3. Robert Sheps, Esq.
Sheps Law Group, P.C.
35 Pinelawn Road
Suite 106 East
Melville, New York 11747
Phone: (631) 249-5600 ext. 1002
rsheps@shepslaw.com
4. Karin Fisch, Esq.
Abbey Spanier Rodd & Abrams LLP
212 East 39th Street
New York, New York 10016
Phone: (212) 889-3700
kfisch@abbeyspanier.com
5. Todd Denenberg, Esq.
Denenberg Tuffley, PLLC
21 E. Long Lake Road, Suite 200
Bloomfield Hills, Michigan 48304
Phone: (248) 203-2751
tdenenberg@dt-law.com

C. The SCPC's responsibilities and duties shall include:

1. to consider case management issues and be heard on future CMOs after consultation with Liaison Counsel for Defendants, as designated in Section V, supra;
2. to meet with Liaison Counsel for Defendants, for the purpose of proposing joint actions, including but not limited to responses to questions and suggestions of the Court or of adversaries with regard to Orders, schedules, briefs, stipulations of fact, and other matters;
3. to coordinate the briefing and argument of motions;
4. to coordinate the conduct of discovery procedures, including, but not limited to coordination of the preparation of joint demands for a bill of particulars, joint requests for the production of documents, joint written interrogatories, and joint notices to admit, pursuant to Section X, infra, and any future CMOs governing discovery, where applicable; and
5. to represent the consensus of plaintiffs' counsel on each of the above issues.

D. The SCPC shall not have the right to bind any party as to any matter without the consent of counsel for that party. If, on any issue, a party has a position different from that set forth by the SCPC or any members thereof, that party shall be entitled to present that position to the Court separately. Further, the members of the SCPC shall remain free to represent the interests and positions of their clients free of any claim (including without limitation any claim of conflict) arising from service on such SCPC.

E. The SCPC shall also implement items that shall be set forth in a future CMO, including, but not limited to a limited access (password-protected) informational website, a depository for court papers and hearing transcripts, and a limited-access (password-protected) document depository, and will perform such other duties as are set forth in future CMOs.

F. Members of the SCPC shall be reimbursed periodically but not less than every two months by counsel for all plaintiffs, pro rata (or if not pro rata, pursuant to a written agreement among plaintiffs), for their necessary and reasonable expenses actually incurred in performing their tasks pursuant to this Order and shall keep records of such expenses in reasonable detail for examination by counsel.

VII. Privileges

The Court recognizes that cooperation among counsel and parties is essential for the orderly and expeditious resolution of this litigation. The communication, transmission or dissemination of information in connection with the Steam Pipe Explosion Cases among the Plaintiffs' counsel, or among the Defendants' counsel, shall not be deemed a waiver of the attorney-client privilege, the protection afforded by the work product doctrine, the protection afforded to material prepared for litigation, the joint prosecution or joint defense privilege, or any other privilege to which a party may be entitled. Cooperative efforts, as described in this and future CMOs, shall not in any way be used against any of the parties, be cited as purported evidence of a conspiracy, wrongful action or wrongful conduct, and shall not be communicated to the jury at the trial of any action. Nothing in this paragraph shall in any way affect the applicability of any privileges or protection against disclosure otherwise available under law.

VIII. Third-Party Complaints and Other Pleadings

A. Third-Party Complaint or Other Pleading That Relates to All Cases.

Where a party seeks to file a third-party complaint or other pleading that relates to all actions in the Coordinated Proceeding, it shall file a single third-party complaint or pleading bearing the caption set forth in Paragraph B.1 of Section III, supra.

B. Third-Party Complaint or Other Pleading That Relates to One or More Cases but not All Cases. Where a party seeks to file a third-party complaint or other pleading that relates to one or more specific cases but not all cases, it shall file a single third-party complaint or pleading bearing a caption as set forth in Paragraph B.2 of Section III, supra.

C. Sections XI, XII, and XIII Shall Also Apply. The provisions of Sections XI, XII, XIII, infra, governing filing of papers, electronic filing, and service of papers shall also apply to any third-party complaint or other pleading filed pursuant to this Section.

IX. Rules of Procedure

The Civil Practice Law and Rules (“CPLR”), the Uniform Rules for Trial Courts, and the express provisions of this and any future Case Management Orders shall govern all proceedings herein.

X. General Procedures for Discovery

A. Coordination By SCPC. The SCPC shall be responsible for coordinating discovery in the Coordinated Proceeding with the goal of ensuring that discovery is uniform and non-duplicative. Detailed procedures governing discovery and other demands for information shall be addressed in a future CMO. All discovery requested

from defendants and non-party witnesses on behalf of plaintiffs with cases in this Coordinated Proceeding shall be undertaken by, or under the direction of, the SCPC. No demands for a bill of particulars, requests for production, interrogatories, notices to admit, deposition notices, or subpoenas for documents or pre-trial testimony, may be propounded on the defendants or on non-parties other than the discovery propounded by the SCPC. All motions with respect to discovery directed against defendants and non-party witnesses on behalf of plaintiffs shall be undertaken by, or under the direction of, the SCPC on behalf of all plaintiffs with cases in this Coordinated Proceeding. No motions with respect to discovery directed against defendants and non-party witnesses on behalf of plaintiffs may be made other than those made by, or under the direction of, the SCPC.

B. Pending Discovery. All disclosure and discovery proceedings and obligations directed against defendants and non-party witnesses by any party are deemed withdrawn, except that Plaintiffs' First Set of Document Demands are not deemed withdrawn. ~~All disclosure and discovery of both plaintiffs and defendants is stayed pending coordination of disclosure and discovery by future CMO. Any future discovery~~ by plaintiffs that is not undertaken by the SCPC shall be deemed a nullity and no responses thereto shall be required unless expressly ordered by the Court.

C. Coordination Of Responses to Discovery and Production Of Documents.

Each Defendant, respectively, shall file a single response to all discovery propounded by the SCPC that shall be applicable to all Coordinated Actions and shall produce documents to a central limited-access (password-protected) depository to be set up by the SCPC.

D. Future CMOs. Future CMOs shall address (among other things), a confidentiality stipulation and order, procedures for written discovery, document production (including creation of a document depository), fact depositions, medical examinations of plaintiffs who assert personal injury or emotional distress claims, and expert discovery, as well as timetables for each of the above.

E. Cost-Sharing. The Court will consider whether in the case of certain categories of documents to be produced (including, without limitation, photographs, videotapes, databases or other items), the costs of producing such materials should be shared between or among the parties requesting them and the party or parties producing them. The respective proportions and amounts to be paid with respect to such categories of documents, as well as the categories of documents implicated, shall be the subject of a future CMO *or by application to the Court.*

*PMY
2/13/08*

XI. Filing of Papers

A. Subject to the provisions of Section XI, infra, and any future CMO governing electronic filing, all papers in the Coordinated Proceeding shall be filed electronically.

B. When a paper has general application to all cases, the caption shall bear Index No. 560001/08 and the Clerk of New York County shall file such paper in the Master File. No further copies of the papers need to be filed. Any document so filed shall be deemed to have been filed in each case to which this Order applies and shall constitute part of the record of each such case.

C. When a paper, such as a motion, is applicable only to an individual case, the attorney submitting such paper for filing shall use the caption as set forth in

Paragraph B.2 of Section III, supra. The Clerk of New York County shall not file such a paper in the Master File; rather, after receipt by the Clerk, the Clerk shall file the original in the individual case file under the appropriate index number.

D. When a paper is filed that is applicable to two or more but fewer than all of the Coordinated Actions, the captions shall include the case names and separate index numbers of the actions to which that paper is applicable, as set forth in Paragraph B.2 of Section III, supra. The Clerk of New York County shall file the original in the Master File and shall file a copy in each of the separate files bearing the index numbers so identified to which the paper is intended to be applicable.

E. The filing of a motion or other paper in the Master File or individual case file(s) shall not confer standing on a party where it does not otherwise exist.

XII. Electronic Filing

A. Papers To Be Filed Electronically. All papers to be filed with the Court in the Coordinated Proceeding shall be filed and served electronically in accordance with the electronic filing rules set forth in Section 202.5-b of the Uniform Rules for N.Y. State Trial Courts (“Uniform Rules”) and in accordance with the terms to be set forth in a subsequent CMO, except where a special exemption is granted or as directed by the Court. Electronic filing shall not be required until the entry of such subsequent CMO addressing electronic filing in the Coordinated Proceedings.

B. Consent to Electronic Filing. The subsequent CMO addressing electronic filing in the Coordinated Proceeding shall include but not be limited to the following issues: submission of an omnibus consent to electronic filing by all parties in the Coordinated Proceeding by a date certain; registration for electronic filing in the

Coordinated Actions by a date certain; procedures for obtaining such consents and registration in a timely fashion in future cases; procedures governing service through electronic filing; and procedures for filing electronically all documents previously served in the Coordinated Proceeding.

XIII. Service of Papers

A. Within forty-five (45) days of the date of entry of this Order, Plaintiffs' Liaison Counsel and Liaison Counsel for Defendants shall jointly prepare and shall serve and file in the Steam Pipe Explosion Cases Master File a master service list (the "Master Service List"). The Master Service List shall contain the name, address, telephone number, and email address of the attorney(s) who will be deemed to be the person upon whom valid service of papers (other than process) is to be made by any other party in accordance with Rule 2103(b) of the CPLR. Any party desiring to make a change to the Master Service List shall notify Plaintiffs' Liaison Counsel and Liaison Counsel for Defendants in writing of such change.

B. Plaintiffs' Liaison Counsel shall publish an updated Master Service List or supplement thereto on or before the first of each month, which shall thereafter apply. The Master Service List shall bear a heading showing the date of the service list and indicating that it may be used until superseded by another list.

C. When service of a document is made, it shall be sufficient to attach an affidavit of service to any such document (or supply such affidavit shortly thereafter) indicating that the document has been served on the persons entitled to be served as shown on the Master Service List in effect on the date that service of that document was made.

D. Except as may be expressly otherwise provided in this or future CMOs, all pleadings, motions and other papers served in these cases (excluding discovery):

1. that relate to all Steam Pipe Explosion Cases shall be served on Plaintiffs' and Defendants' counsel for all of the parties;

2. that relate to one or more specific cases but not all Steam Pipe Explosion Cases, counsel for the party filing the documents will serve all parties who are parties to the specific case or cases, and provide a courtesy copy of the document to Plaintiffs' Liaison Counsel and respective Liaison Counsel for Defendants.

E. Regardless of the number of cases in which a law firm has appeared, service of one copy of the document at issue upon that firm shall be sufficient for each case subject to this Order in which that law firm has appeared on behalf of a party.

F. All papers may be served by electronic means, subject to the terms of Paragraph A of Section XI, supra, and any future CMO governing electronic filing.

XIV. Requests for Judicial Intervention

Subject to the provisions of numbered paragraph (6) of the Coordination Order concerning fees, plaintiffs shall be required to file a Request for Judicial Intervention ("RJI") for each case included in this proceeding and pay the appropriate fees therewith designating the case as a matter which should be assigned to the Steam Pipe Explosion Cases calendar of this Court, no later than sixty (60) days after service of the first responsive pleading or within sixty (60) days of the entry of this Case Management Order No. 1, whichever is later. As set forth in Paragraph B.2 of Section IV, supra, Plaintiffs' Liaison Counsel shall arrange for the filing of each RJI.

XV. Prior Appearance of Counsel

Counsel who have appeared in the transferor court prior to the transfer of the case to this Court need not enter a separate appearance before this Court.

XVI. Motions Other Than Discovery Motions

A. Coordination of Motions. As set forth above, it shall be the responsibility of the SCPC to work with plaintiffs' counsel and Liaison Counsel for Defendants, respectively, to coordinate motion practice in these cases. The procedure for filing dispositive motions and for preparing or sequencing other types of motions will be addressed in future CMOs.

B. Good Faith Attempt to Resolve Issues. For non-dispositive motions filed in this litigation, the party or parties making the motion must certify that, prior to filing the motion, the parties attempted in good faith to resolve the issues that are the subject of the motion. For discovery motions (which are otherwise addressed in Paragraph A of Section X, supra) the party or parties making the motion must adhere to the good faith requirements set forth in 22 NYCRR 202.7(a).

XVII. Continuation of Stay

The Stay of all proceedings herein ordered by the Litigation Coordinating Panel shall be lifted upon entry of this CMO No. 1.

XVIII. Status Conferences

The Court intends to schedule and hold regular status conferences. A representative of the SCPC and respective Liaison Counsel for Defendants shall meet and confer in advance of each status conference and submit to the Court, at least forty-eight

(48) hours prior to each scheduled conference, a joint agenda and status conference report listing all matters and motions to be considered by the Court at the status conference. In the event that Counsel cannot agree upon a joint agenda, each side shall submit its agenda items to the Court, with copies to opposing counsel, at least forty-eight (48) hours prior to each scheduled conference.

XIX. Further Matters

Counsel for Con Edison is hereby directed to mail a copy of this Order to all other counsel who have appeared in these Coordinated Actions for plaintiffs and defendants. In those cases filed after January 23, 2008 ("Future Cases"), Liaison Counsel for Con Edison shall promptly serve on plaintiffs in these cases ("Future Plaintiffs") this Order and any future CMO in effect at that time. Service of this Order, future CMOs, or Notice of Electronic Filing shall not constitute an appearance in that action by Con Edison.

Dated: February 13, 2008
New York, New York

SO ORDERED



Paul G. Feinman, J.S.C.

HON. PAUL G. FEINMAN

COUNTY CLERKS OFFICE
NEW YORK

FEB 13 2008

FILED