

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL DRS55061-LR-68B (03/03)

Short Title: Personal Injury Bankruptcy Trust Claims. (Public)

Sponsors: Senators Lee, Brown, and B. Jackson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING RULE 26 OF THE NORTH CAROLINA RULES OF CIVIL
3 PROCEDURE RELATING TO DISCOVERY IN BANKRUPTCY TRUST PERSONAL
4 INJURY CLAIMS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 1A-1, Rule 26(b) of the Rules of Civil Procedure, is amended by
7 adding a new subdivision to read:

8 "Rule 26. General provisions governing discovery.

9 ...

10 (b) Discovery scope and limits. – Unless otherwise limited by order of the court in
11 accordance with these rules, the scope of discovery is as follows:

12 ...

13 (2a) Bankruptcy Trust Personal Injury Claims. –

14 a. Within 30 days after a civil action is filed asserting personal injury
15 claiming disease based upon exposure to asbestos, the plaintiff shall
16 provide to all parties a sworn statement indicating that an
17 investigation of all bankruptcy trust claims has been conducted and
18 that all bankruptcy trust claims that can be made by the plaintiff have
19 been filed.

20 b. The plaintiff shall provide the parties with the identity of all
21 bankruptcy trust claims made and all materials submitted to or
22 received from a bankruptcy trust.

23 c. The plaintiff shall supplement the information and materials that
24 plaintiff provides pursuant to this subsection within 30 days after the
25 plaintiff files an additional bankruptcy trust claim, supplements an
26 existing bankruptcy trust claim, claim, or receives additional
27 information or materials related to any claim against a bankruptcy
28 trust.

29 d. If a defendant has a reasonable belief that the plaintiff can file
30 additional bankruptcy trust claims, the defendant may move the court
31 to stay the civil action until the plaintiff files the bankruptcy trust
32 claim.

33 e. A defendant is entitled to a setoff or credit in the amount the plaintiff
34 has been awarded or is reasonably expected to be awarded from a
35 bankruptcy trust.



- 1 f. Bankruptcy trust claims materials are presumed to be relevant and
- 2 authentic and are admissible in evidence in the civil action.
- 3 g. A defendant in the civil action may seek discovery from a
- 4 bankruptcy trust. The plaintiff may not claim privilege or
- 5 confidentiality to bar discovery and shall provide consent or other
- 6 expression of permission that may be required by the bankruptcy
- 7 trust to release information and materials sought by the defendant.

8 "

9 **SECTION 2.** This act is effective when it becomes law and applies to actions
10 pending on or after that date.