

June 19, 2007

ADM File No. 2003-47

Retention of Administrative
Order No. 2006-6
(Prohibition on “Bundling” Cases)

On August 9, 2006, this Court adopted Administrative Order No. 2006-6, which prohibited the “bundling” of asbestos-related cases. 476 Mich xlv-li (2006). At the same time, the Court stated that it would accept comments on the administrative order until December 1, 2006. Notice and an opportunity for comment at a public hearing having been provided, the order is retained.

CORRIGAN, J. (*concurring*). I concur with the order retaining Administrative Order No. 2006-6. I write separately to point out that, contrary to the dire predictions of the dissenters to the administrative order, the initial adoption of our antibundling order last August has not caused the sky to fall. The order has not disrupted the progress of the asbestos docket in the Third Circuit Court. Since the administrative order was adopted, we are informed that all the cases scheduled each month have been settled without trial, just as had occurred before the adoption of the order.

The only reported new effect of Administrative Order No. 2006-6 is that settlement negotiations occur among the parties without court participation. Contrary to the dire predictions, the asbestos docket has not come to a grinding halt nor has our order required ten additional Third Circuit judges or dramatically increased the workload. In fact, the circuit court should have more time available because of the loss of court-ordered settlement conferences. I support Administrative Order No. 2006-6 because it continues to serve the sound and simple purpose of ensuring that each case is considered on its own individual merits.

I remain interested in further studying the administrative proposal regarding the development of an inactive asbestos docket.

WEAVER, J. (*dissenting*). I dissent to the retention of Administrative Order No. 2006-6 because I remain unconvinced that this “antibundling” order falls within the scope of our judicial powers.

KELLY, J. (*dissenting*). I oppose the retention of Administrative Order No. 2006-6. The purported objective of the order is to ensure that the circuit courts consider each asbestos-related case on its own merits. Since the order was entered, we have received no indication that this objective has been even

minimally attained. Not one asbestos-related case has been submitted to the courts for trial on its merits. Instead, these cases are settling in bundles, as before. But, because of AO No. 2006-6, they must now settle without the assistance of the courts. AO No. 2006-6 is confusing to those at whom it is directed and ineffectual for all intents and purposes. It should be rescinded.

CAVANAGH, J., concurred with KELLY, J.