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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 MATTHEW HODJERA and SYLVIA  
11 HODJERA,

12 Plaintiffs,

13 v.

14 BASF CATALYSTS LLC, *et al.*,

15 Defendants.

Case No. C17-48RSL

ORDER DENYING AS MOOT  
PLAINTIFFS' MOTION FOR  
PRIORITY TRIAL SETTING

16 This matter comes before the Court on plaintiffs' motion for priority trial setting. Dkt.  
17 # 117. Having reviewed the memoranda of the parties and the remainder of the record, the Court  
18 denies as moot plaintiffs' motion for the reasons that follow.

19 According to the original complaint, Mr. Hodjera was exposed to asbestos or asbestos-  
20 containing products in Toronto, Ontario, between 1986 and 1994. Dkt. # 1-1 at 4. On May 20,  
21 2016, Mr. Hodjera was diagnosed with mesothelioma. *Id.* On December 2, 2016, plaintiffs filed  
22 suit in King County Superior Court, alleging that Mr. Hodjera's mesothelioma had been  
23 proximately caused by the manufacture, sale, and/or distribution of asbestos-containing products  
24 by the following defendants: BASF Catalysts LLC; BorgWarner Morse Tec Inc.; Central  
25 Precision Limited; Charles B. Chrystal Company, Inc.; Dana Companies, LLC; Dana Canada  
26 Corp.; DAP Products, Inc.; Felt Products Mfg. Co.; Honeywell International Inc.; Imerys Talc

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28 ORDER DENYING AS MOOT PLAINTIFFS'  
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1 America, Inc.; Johnson & Johnson; Johnson & Johnson Consumer Companies, Inc.; Pneumo  
2 Abex LLC; Union Carbide Corporation; Vanderbilt Minerals LLC; Volkswagen  
3 Aktiengesellschaft; Volkswagen Group of Canada; Volkswagen Group of America, Inc.;  
4 Whittaker, Clark & Daniels, Inc.; and Does 1–350, inclusive. Dkt. # 1-1 at 2–3. On January 11,  
5 2017, defendant Volkswagen Group of America, Inc. removed the case. Dkt. # 1. The Court  
6 has granted various motions to dismiss on the grounds that plaintiffs’ original complaint lacked  
7 sufficient factual allegations to establish specific jurisdiction in Washington.

8 Plaintiffs move for a priority trial setting pursuant to RCW 4.44.025, which provides that  
9 “[w]hen setting civil cases for trial . . . upon motion of a party, the court may give priority to  
10 cases in which a party is frail and over 70 years of age or is afflicted with a terminal illness.”  
11 Plaintiffs introduce a declaration from Mr. Hodjera’s treating physician, Dr. Somasundaram  
12 Subramaniam, who testifies that Mr. Hodjera’s mesothelioma may affect his ability to recall  
13 events and accordingly that “any deposition or trial which will require Mr. Hodjera to accurately  
14 recall events should take place expeditiously and as soon as possible, while he has physical  
15 stamina to participate in the process and the ability to think cogently and communicate  
16 effectively.” Dkt. # 119, ¶ 4.

17 Balancing these medical concerns with their interest in preparing sufficiently for trial,  
18 plaintiffs specifically request a trial date seven months after their motion is adjudicated. Dkt.  
19 # 117 at 3. Trial is currently scheduled for March 5, 2018, Dkt. # 79, which is seven months and  
20 one week from the date of this order. Accordingly, plaintiffs’ motion is denied as moot.

21 For the foregoing reasons, plaintiffs’ motion for priority trial setting (Dkt. # 117) is  
22 DENIED as moot.

23 Dated this 31st day of July, 2017.

24   
25 Robert S. Lasnik  
26 United States District Judge