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15 Attorneys for Specially Appearing and
16 [Proposed] Intervenor GREAT AMERICAN
17 INSURANCE COMPANY

ELECTRONICALLY
FILED

*Superior Court of California,
County of San Francisco*

08/23/2021
Clerk of the Court
BY: JACKIE LAPREVOTTE
Deputy Clerk

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11
12 COUNTY OF SAN FRANCISCO

13 YSIDRO LIMON, SR.,

CASE No. CGC-15-276378

14 Plaintiff,

EVIDENTIARY PACKET IN SUPPORT
OF SPECIALLY APPEARING AND
[PROPOSED] INTERVENOR GREAT
AMERICAN INSURANCE COMPANY'S
MOTION TO VACATE AND SET ASIDE
DEFAULT AND DEFAULT JUDGMENT,
OR ALTERNATIVELY, MOTION FOR
LEAVE TO FILE COMPLAINT-IN-
INTERVENTION

15 v.

16 AMCORD, INC., et al.,

17 Defendants.

18
19 [Filed Concurrently with: Notice of Motion;
20 Memorandum of Points and Authorities;
21 Declaration of Laurie S. Julien; Declaration of
22 Flo-Ann Wilson; Request for Judicial Notice;
23 (Proposed) Order]

24 Date: September 16, 2021
25 Time: 9:30 a.m.
26 Dept.: 503

27 The Hon. Cynthia Ming-Mei Lee

28 Action Filed: October 18, 2011
Trial Date: None

[EXHIBITS M - U]

EXHIBIT M

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7 | Attorneys for Plaintiff

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

10 YSIDRO LIMON, SR.,
11 Plaintiff,
12
13 vs.
14 AMCORD, INC., et al.,
Defendants.

ASBESTOS
No. CGC-15-276378

DECLARATION OF NANCY T.
WILLIAMS IN SUPPORT OF
APPLICATION FOR ENTRY OF
DEFAULT JUDGMENT AGAINST
DEFENDANTS CARROLL DUNCAN &
CO., C.F. BOLSTER COMPANY, E.S.
BROWNING CO., AND K & R
AUTOMOTIVE

Hearing Date: September 21, 2017
Time: 9:00 a.m.
Dept.: 514, Hon. Stephen M. Murphy
Trial Date: Not Applicable
Filing Date: January 2, 2015

I, Nancy T. Williams declare:

21 1. I am an attorney at law duly licensed to practice in the State of California, and am
22 an associate with the law firm Brayton♦Purcell LLP, attorneys for record for plaintiff herein. I
23 have reviewed the file in this matter and made this declaration on the basis of that review:

24 2. Attached hereto are true and accurate copies of the following exhibits showing the
25 evidence of plaintiff YSIDRO LIMON's ("Plaintiff") asbestos related injury and illness and the
26 economic damages and non-economic damages in this case;

27 //

SUMMARY OF DOCUMENTARY EVIDENCE

<u>Exhibit</u>	<u>Category</u>	<u>Detail</u>
A.	Medical Report	Medical Report of Richard A. Levy, M.D.
B1.	Proof of Default, Service of Summons, and Damages Ceiling as to CARROLL DUNCAN & CO.	Request for Default Judgment, Proof of Service and Statement of Damages served upon Defendant.
B2.	Proof of Default, Service of Summons, and Damages Ceiling as to C.F. BOLSTER COMPANY	Request for Default Judgment, Proof of Service and Statement of Damages served upon Defendant.
B3.	Proof of Default, Service of Summons, and Damages Ceiling as to E.S. BROWNING CO.	Request for Default Judgment, Proof of Service and Statement of Damages served upon Defendant.
B4.	Proof of Default, Service of Summons, and Damages Ceiling as to K & R AUTOMOTIVE	Request for Default Judgment, Proof of Service and Statement of Damages served upon Defendant.
C.	Future Medical Damages	Declaration of Frank Ganzhorn, MD.
D.	Non-Economic Damages	Testimony of Plaintiff
E.	Non-Economic Damages	Declaration of James P. Nevin
F.	Work history	Worksite Product identification and summary of work place exposure
G.	Past Medical Billing	Medical Billing Statement

19 3. This action for damages arises from the asbestos related injury of Plaintiff, a career
20 Sprinkler Fitter, who is 78 years old. Plaintiff filed a complaint for personal injury naming
21 Defendants CARROLL DUNCAN & CO., C.F. BOLSTER COMPANY, E.S. BROWNING CO.,
22 and K & R AUTOMOTIVE (hereinafter “defendants”) among others. The complaint sets forth
23 work history of plaintiff evidencing plaintiff’s exposure to asbestos caused by defendant. The
24 operative summons, complaint and Statements of Damages was served on defendants and
25 defendants have each failed to defend or otherwise appear in this action. Plaintiff has filed
26 proofs of service of summons on defendants as well as a requests for entry of defaults and
27 Statements of Damages.

28 |||

1 4. Plaintiff was diagnosed with and suffers from Asbestosis and Pleural Disease
2 caused by Plaintiff's exposure to asbestos for which defendants are liable. As evidence of
3 Plaintiff's personal injury, plaintiff submits the report of plaintiff's medical expert, Richard A.
4 Levy, M.D., attached to the Declaration of Nancy T. Williams, filed concurrently herewith, as
5 Exhibit "A".

6 5. Plaintiff had an exposure / work history that included exposure to asbestos
7 containing products. Defendants caused said exposure. Plaintiff's work history was detailed in
8 the Exhibit A attached to the complaint. The exposure relevant to this application for default
9 judgment is summarized as follows: Plaintiff's work history, attached in Exhibit A to the
10 Complaint, shows exposure to asbestos containing product caused by defendant.

11 Plaintiff brought this action against Defendants for personal injury alleging causes of
12 action for Negligence, Strict Products Liability, False Representation, and/or Premises Owner /
13 Contractor Liability.

14 Plaintiff was exposed to asbestos containing products supplied by defendants and/or
15 installed and/or disturbed by said defendants as a contractor or supplier. Such exposure
16 contributed to cause plaintiff's asbestos-related disease.

17 6. In support of Plaintiff's request for economic damages Plaintiff provides a
18 declaration of Internal Medicine Specialist and Pulmonologist Frank Ganzhorn, M.D. See
19 declaration of Dr. Ganzhorn, attached hereto as Exhibit "C". In his declaration, Dr. Ganzhorn
20 opines that, at a minimum, the costs of medical monitoring include one time procedures as well
21 as reoccurring procedures:

22 a. Dr. Ganzhorn opines that annual procedures include annual follow up examinations
23 (\$300.00/yr), annual pulmonary function tests (\$1,000.00/yr) and annual chest x-rays
24 (\$300.00/yr). These total \$1,600.00 per year.

25 Pursuant to CACI 3932 and Table A - Life Expectancy Table, the average life
26 expectancy for Plaintiff, who is age 78, is 9 more years.

27 The total annual medical monitoring of \$1,600.00 per year multiplied by 9 more years is
28 \$14,400.00.

1 b. Dr. Ganzhorn opines that a CT with High Resolution Scans occur ever two years at
2 \$1,800.00 per scan. Plaintiff's life expectancy, divided by two (to reach a biennial figure), equals
3 4.5 more years. The cost of \$1,800.00 for CT exams multiplied by 4.5 more years is \$8,100.00.

4 c. Dr. Ganzhorn opines that, in addition to these annual and biennial costs, the
5 following procedures are also required: An initial complete pulmonary evaluation (\$1,500.00), a
6 Colon Cancer Screening (\$3,000.00) and at least one future hospitalization (\$50,000.00). These
7 minimum procedures total \$54,500.00.

8 Combined, these minimum economic damages for future medical expenses is
9 \$77,000.00 (a+b+c).

10 7. Plaintiff has testified, in accordance with CACI 3905A, to plaintiff's pain, mental
11 suffering, loss of enjoyment of life, disfigurement, impairment, inconvenience, grief, anxiety,
12 humiliation, distress, and fear of death from cancer, as a result of plaintiff's asbestos related
13 disease. Plaintiff's testimony is attached hereto as Exhibit "D".

14 8. In further support of plaintiff's reasonable request for non-economic damages,
15 plaintiff's counsel, James P. Nevin, has provided a declaration detailing typical jury non-
16 economic damages verdicts for cases (Exhibit "E").

17 9. A true and accurate copy of the Worksite Product identification and summary of
18 work place exposure regarding plaintiff's exposure caused by Defendant is attached hereto as
19 Exhibit "F". This exhibit includes further explanation of how the defendants are responsible for
20 the exposure. This is done in response to the Court's request that counsel provide increased
21 detail in the presentation of "Work and Exposure History" in the default prove-ups packets.
22 Particularly, the Court has requested that the defaulted defendants be identified in the history, and
23 that counsel include an explanation of how the defendants are responsible for the exposure. This
24 exhibit is comprised of a summarized work history as to just the defendants that are the subject
25 of this prove-up. Attached to, and part of this exhibit is the "Exhibit A", showing the extended
26 work and exposure history for the injured party. Counsel provides the attached as a summary of
27 the relevant exposure summary only for context for the Court, but such evidence is not required
28 at all. There is no requirement to prove liability, because through the entry of default,

1 Defendants admit all the material allegations in the operative complaint. Defendants have each
2 failed to appear despite being properly served with the Summons, Complaint and Statements of
3 Damages. Defendants have each deliberately waived the right to their day in court. By sufficient
4 evidence, it is shown Defendants are each liable and therefore Plaintiff should be granted a
5 default judgments. The Court must enter judgments even if no presentation as to liability have
6 been provided whatsoever.

7 10. The Medical Billing Statement attached to hereto as Exhibit "H" provides
8 evidence of plaintiff's damages for past medical expenses. This exhibit includes a medical
9 billing statement.

10 For an injured party who carries traditional health insurance or Medicare, the current
11 state of California law regarding recovery of past and future medical damages from a tortfeasor is
12 set forth in Howell v. Hamilton Meats, Inc. (2011) 52 Cal.4th 541 as extended and applied in
13 Corenbaum v. Lampkin (2013) 215 Cal.App.4th 1308, and its progeny. Recovery owing to the
14 tortfeasor's tort is no longer necessarily based on the charged amount of services; rather,
15 recovery *can* be limited by evidence of the non-recourse accepted payments and lien rights. In
16 short, *if* (and only if) there is evidence that the provider accepted a reduced amount as full
17 payment of past medical bills, damages for past medical expenses are limited to the amount paid
18 or incurred for the past medical expenses.

19 In accordance with the law set forth above, Plaintiff hereby seeks to recover the total
20 amount paid of \$1,061.04.

21 11. The title of the operative complaint, upon which Defendant was default is
22 Complaint for Personal Injury - Asbestos. It was filed on January 2, 2015. A true and accurate
23 copy of this operative complaint is attached hereto as Exhibit "H".

24 12. The relevant procedural history as to each defendant is summarized as follows:

25 **Service as to Defendant CARROLL DUNCAN & CO.**

26 On March 13, 2015, Defendant was served with Summons, Complaint and Statements of
27 Damages.

28 On March 25, 2015, Plaintiffs filed Proof of Service.

1 On May 13, 2015, Request for Entry of Default was filed and was granted by the Clerk
2 of Court.

3 On May 13, 2015, the Statement of Damages was filed with the Clerk of Court.

4 Since the time of service upon Defendant, amendments have been filed to the operative
5 complaint served on defendant on this date. Said Amendments have not materially changed the
6 substance of the causes of action plead against Defendant.

7 **Service as to Defendant C.F. BOLSTER COMPANY**

8 On March 13, 2015, Defendant was served with Summons, Complaint and Statements of
9 Damages.

10 On March 25, 2015, Plaintiffs filed Proof of Service.

11 On May 13, 2015, Request for Entry of Default was filed and was granted by the Clerk
12 of Court.

13 On May 13, 2015, the Statement of Damages was filed with the Clerk of Court.

14 Since the time of service upon Defendant, amendments have been filed to the operative
15 complaint served on defendant on this date. Said Amendments have not materially changed the
16 substance of the causes of action plead against Defendant.

17 **Service as to Defendant E.S. BROWNING CO.**

18 On March 13, 2015, Defendant was served with Summons, Complaint and Statements of
19 Damages.

20 On March 25, 2015, Plaintiffs filed Proof of Service.

21 On May 13, 2015, Request for Entry of Default was filed and was granted by the Clerk
22 of Court.

23 On May 13, 2015, the Statement of Damages was filed with the Clerk of Court.

24 Since the time of service upon Defendant, amendments have been filed to the operative
25 complaint served on defendant on this date. Said Amendments have not materially changed the
26 substance of the causes of action plead against Defendant.

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1 **Service as to Defendant K & R AUTOMOTIVE**

2 On February 6, 2015, Defendant was served with Summons, Complaint and Statements
3 of Damages.

4 On March 3, 2015, Plaintiffs filed Proof of Service.

5 On August 6, 2015, Request for Entry of Default was filed and was granted by the Clerk
6 of Court.

7 On August 6, 2015, the Statement of Damages was filed with the Clerk of Court.

8 Since the time of service upon Defendant, amendments have been filed to the operative
9 complaint served on defendant on this date. Said Amendments have not materially changed the
10 substance of the causes of action plead against Defendant.

11 13. Since the time of service upon Defendants, amendments have been filed to the
12 operative complaint served on defendants on this date. Said Amendments have not materially
13 changed the substance of the causes of action plead against Defendants.

14 14. The hearing on the Order to Show Cause re Dismissal of Doe Defendants is set for
15 December 7, 2017.

16 15. Dismissal of "DOE" defendants in this case is irrelevant to the matter of Default
17 Judgment against Defendants. Such matters are better handled at the Order to Show Cause re
18 Dismissal hearing before the Honorable Cynthia Ming-mei Lee.

19 16. Regarding the status of remaining defendants in this case, and whether granting this
20 application would resolve all remaining claims in this case: This action has settled as to all
21 non-defaulted defendants. Prove-up on Defendants CARROLL DUNCAN & CO., C.F.
22 BOLSTER COMPANY, E.S. BROWNING CO., and K & R AUTOMOTIVE is the only aspect
23 remaining as to the status of defendants in this action. The granting of this application for
24 ///

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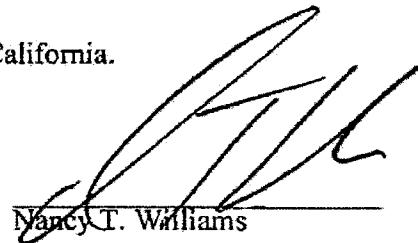
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1 default judgments in this case would resolve all remaining claims for this case with the following
2 exception: Plaintiff continues to pursue claims against bankruptcy-related asbestos trusts for
3 recovery of damages.

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct.

6 Executed on July 26, 2017, at Novato, California.



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9 Nancy T. Williams
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EXHIBIT A

RICHARD A. LEVY, MD, FACC

3580 California Street, Suite 302
San Francisco, CA 94118-1761
Tel: (415) 929-9405
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Board Certified
Cardiology and Internal Medicine
Consultative Cardiology
Non-Invasive Diagnostic Testing
Cardiovascular Labs

May 15, 2016

Alan. R. Brayton, Esquire
Brayton and Purcell, LLP
P.O. Box 6169
Novato, CA 94948-6169

RE: **LIMON, Ysidro Sr. v. Amcord, Inc. et al**

MEDICAL-LEGAL RECORDS REVIEW

Dear Mr. Brayton:

Thank you for Ms. Badr's May 11, 2016 letter.

In preparation for this medical-legal review, I reviewed two large binders that came on that date. They were double-sided, 5-1/2 inches tall in six separate sections.

I have not met or examined Mr. Limon. I have talked neither to his family nor to his treating physicians.

REVIEW OF RECORDS:

Mr. Limon is 75 years old as of his interrogatories dated 05/14/15. Per the interrogatories, the patient was a lifetime non-smoker. Per the interrogatories, he was diagnosed as having asbestosis in May 2007 and asbestos-related pleural disease in July 2014.

Per the interrogatories, the patient contends he was exposed to asbestos in the following locations:

- A. Stonebro Corporation, sprinkler fitter, 1958-1961.
- B. Security Fire Protection, sprinkler fitter, 1958-1960.
- C. Security Fire Protection, sprinkler fitter, 1958-1961.
- D. Stonebro Corporation, sprinkler fitter, 1960-1962.
- E. Automatic Fire Protection Company, sprinkler fitter, 1962-1964.
- F. Atlas Automatic Sprinklers, sprinkler fitter, 1964-1965.
- G. Costco Fire Protection, sprinkler fitter, 1965-early 1970s.

H. Grinnell Company of Pacific, sprinkler fitter, 1968-1985.
I. Grinnell Company of Pacific, sprinkler fitter, 1968-1990.
J. Costco Fire Protection, sprinkler fitter, late 1960s.
K. Costco Fire Protection, sprinkler fitter, early 1970s.
L. Grinnell Company of Pacific, sprinkler fitter, mid to late 1970s.
M. Grinnell Corporation, sprinkler fitter, late 1970s.
N. Grinnell Corporation, sprinkler fitter, late 1970s-early 1980s.
O. C.F. Braun Constructors, welder/helper, 1980.
P. Sentry Sprinkler, sprinkler fitter, 1987; 1992.
Q. Ortiz Fire Protection, sprinkler fitter, 1987-1988.
R. Wormald Fire Systems, sprinkler fitter, 1989.

There was non-occupational friction work as well.

The patient belonged to the Sprinkler Fitters Union 709. He took a regular retirement in 1994.

Per the interrogatories, the aggregate period of exposure was 1958 through 1992. The last year of injurious California exposure was at Sentry Sprinkler in 1992. The aggregate period of exposure is 34 years.

Medical records begin in 1999. The patient had a history of hypertension and diabetes. He went to the emergency room with a stroke. Diabetes had been present since 1981 as had hypertension.

The patient had internal derangement left knee 2000. He underwent surgery with no complications.

Patient had diabetic neuropathy and peripheral polyneuropathy in the late 1990s.

Patient developed an ulceration in his left foot after a blood blister after a traumatic injury. This did not respond to antibiotics. The patient had surgery for the above for gangrenous ulcers. He had peripheral vascular disease.

Patient presented with chest pain and tachycardia in 2006. He had rapid atrial fibrillation which converted. Follow up studies showed left ventricular hypertrophy, aortic insufficiency, mitral and tricuspid insufficiency.

He had five vessel coronary bypass surgery and an aortic valve bioprostheses placed. There were complications of autonomic neuropathy and anemia. There were secondary complications of pleural effusions and bronchitis. He had low arterial saturations.

Pulmonary function tests 05/18/07 showed a diffusion deficit and reduced lung volumes suggesting an early parenchymal problem. There was mild airways obstruction. Pulmonary function tests 2006 showed mild restriction.

Chest x-ray 07/22/07 showed right lower lung and pleural scarring and new left mid to lower lobe linear scarring.

Patient had an evaluation by Dr. Scott on a pulmonary-internal medicine basis on May 18, 2007. Patient had a heart attack in 2006 according to that evaluation and BPH. Patient had left-sided hemiparesis.

Pulmonary function tests showed reduced FEV1, FEV1/FVC and FEF 25-75. MVV was reduced. TLC and slow vital capacity were reduced. FRC was normal. There was no significant response to bronchodilators. Reduced diffusion capacity was thought to indicate a moderate loss of function alveolar capillary surface. PFT interpretation was the patient had diffusion deficit and reduced lung volume suggestive of early parenchymal process and mild airways disease.

CT chest scan 06/05/07 interpreted by Dr. Portanova showed bronchial wall thickening, multiple linear fibrotic parenchymal strands, a single fibrotic parenchymal scar and interstitial fibrosis that was moderately severe in the right posterior mid to lower lung field and mild in the left posterior lung field.

Dr. Scott opined that the patient had asbestos-related pleural and parenchymal involvement with interstitial fibrosis, mild to moderate. There was right posterior lung opacification. There was moderately severe non-calcified pleural thickening. The patient was felt to have the clinical diagnosis of pulmonary asbestosis. He was limited to Light Work on a work comp industrial basis without apportionment.

Patient had a pleural effusion in 09/07. He had Heimlich valve placed for that. The study was negative for chylothorax.

Echocardiogram 2008 showed left atrial enlargement, right-sided chamber is normal, preserved left ventricular function and minor hypokinesis.

The patient had left knee replacement in 2010 without complication. He had had a prior decompression thoracic surgery with thoracic disc herniation T10 and T11. He had a T11 fusion.

The patient had a left femoral shaft fracture in February 2009.

The patient had E.coli sepsis in 2011.

Patient reportedly had a nuclear stress test for clearance for his right knee surgery in 2012.

In 2013, patient was found to have Gleason 4+4 prostate cancer. He underwent radiation for this. He also had diabetic laser treatments for this.

Donald Brayer, M.D. B-read of a 11/15/13 chest x-ray showed parenchymal findings and pleural findings. There were bibasilar changes of coarse parenchymal scarring and architectural distortion. There was bilateral diffuse pleural thickening greater on the left.

Dr Daniel Powers B read of chest xray 5-14-14 showed no definite evidence for asbestosis. Correlate with prior HRCT. Bilateral diffuse pleural thickening prior characteristic of prior asbestos exposure. Rule out right carcinoma. Correlate with preop chest xrays.

Dr. Daniel Powers' B-read consultation of a CT chest with HRCT views without contrast 8-19-14 showed no prone HRCT evidence for asbestosis. There was bilateral right greater than left diffuse pleural thickening with calcification on the left. There was prominent right-sided benign fibrocicatrical mass and bilateral parenchymal banding characteristic of prior asbestosis exposure. No HRCT evidence for emphysema. The entire chest was not visualized. There was moderate coronary artery calcification and a small hiatus hernia and a loculated pleural effusion.

Echocardiogram February 2015 showed left ventricular hypertrophy, left atrial enlargement, preserved left ventricular ejection fraction. Right-sided structures were normal.

There was a note from Dr. Powers to the patient saying that he needed to seek medical follow up.

Pre-anesthesia questionnaire 03/18/14 noted slight asbestosis lower part of the lobe, as well as high blood pressure, diabetes and stroke. There was mild renal insufficiency and anemia in the 10.3 gram range.

The patient presented with aspiration pneumonia under Dr. Moaddeli's care 11/18/15. Past history was reviewed. Relative hypoxia was present. History of asbestosis was noted. Chest CT scan was requested.

Diagnoses included chronic asbestosis as well as 13 other diagnoses. Chart notes during that hospitalization referred to asbestosis. The history of rounded atelectasis secondary to asbestos exposure. There was esophageal dilatation status post EGD.

The patient was treated with Augmentin. Pulmonary consultation did not note a history of asbestosis or other interstitial lung disease.

IMPRESSIONS:

1. Respiratory issues:

- a) Longtime asbestos exposure.
- b) No tobacco use.
- c) Pulmonary function tests showing diffusion and restrictive abnormalities more than obstructive abnormalities. No reversibility with bronchodilators.
- d) Experts' evaluation consistent with asbestosis and asbestos-related pleural disease 2007.
- e) Expert radiologist concurring on pleural thickening related to asbestosis. Inconsistent interpretation for parenchymal disease consistent with asbestosis.
- f) Treaters referencing chronic asbestosis with rounded atelectasis consistent with asbestos. No findings of interstitial lung disease.
- g) Clinical shortness of breath.
- h) Aspiration pneumonia.
- i) History of pleural effusions after thoracic disc surgical procedure without chylothorax.
- j) Status post aortic valve/five vessel coronary bypass surgery.

2. Cardiac issues:

- a) Prior history of small myocardial infarction.

- b) Aortic valve repair for aortic insufficiency with five-vessel bypass surgery.
- c) Transient atrial fibrillation.
- d) Hypertension with hypertensive heart disease.
- e) Normal left ventricular ejection fraction.
- f) No evidence of right atrial or right ventricular abnormalities.
- g) Peripheral vascular disease with gangrene left foot requiring debridement.
- h) Long-standing 30 year history aorta adult onset diabetes with retinopathy, neuropathy and probable nephropathy, status post stroke.
- i) Elevated lipids.
- j) Mild renal insufficiency.
- k) Mild to moderate anemia.

3. Other medical problems

- a) Prior total hip replacements.
- b) Prior total knee replacements.
- c) Prostate cancer treated with radiation, 2013.
- d) Esophageal dilatation, small hiatus hernia.

SUMMARY:

This patient had a long-standing vascular history. He was a nonsmoker. He was evaluated in 2007 for respiratory problems. Parenchymal asbestosis and asbestos-related pleural disease were found by treaters and evaluators. On an industrial basis, the patient was limited to Light Work without apportionment.

The patient remained relatively stable from a pulmonary basis until 2015. He became more short of breath. He was hospitalized for aspiration pneumonia. He was found to have chronic asbestosis with rounded atelectasis on his chest x-rays. His treaters there did not feel he had interstitial fibrosis.

This patient had consistent pulmonary function tests showing restrictive, as well as diffusion abnormalities. There was a mild obstructive deficit with no reversibility.

In the presence of non-smoking, I would concur with his evaluators. I believe this patient had chronic asbestosis based on pulmonary function tests back in 2007 as well as currently. He had imaging findings that show consistent pleural disease. Various but not all radiologists have opined radiographic parenchymal findings consistent with asbestosis.

While chest surgery can cause fibrotic changes and potential restrictive findings, this patient had other findings consistent with parenchymal lung disease. This patient's PFT abnormalities and clinical picture are more consistent with parenchymal lung disease as asbestosis.

This patient is obviously not too mobile.

There is no chronic use of oxygen as of the records at the end of 2015.

In my opinion, his parenchymal and pleural lung disease are being complicated by his chest wall abnormalities secondary to his cardiac surgery and thoracic surgeries. Additionally, breathing likely would be complicated by his ongoing anemia.

Thank you for asking me to provide this medical-legal records review.

I declare under penalty of perjury that the information contained in this report and its attachments, if any, is true and correct to the best of my knowledge and belief, except as to the information that I have indicated I received from others. As to that information, I declare under penalty of perjury that the information accurately describes the information provided to me and, except as noted herein, that I believe it to be true.

I further declare under penalty of perjury that I have not violated the provisions of California Labor Code Section 1198.1 with regard to the evaluation of this patient or preparation of this report.

I further declare under penalty of perjury that the name and qualifications of each person who performed any services in connection with the report, including diagnostic studies, other than clerical preparation are as follows: None.

Signed this 12 day of July, 2016, at City and County of San Francisco.

Sincerely,

Richard A. Levy, M.D., QME
RAL:clk

EXHIBIT B1

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) David R. Donadio, Esq., S.B. #154436 Brayton & Purcell LLP 222 Rush Landing Road Novato, California 94948 TELEPHONE NO: 415-898-1555 FAX NO: (Dashed) 415-898-1247 E-MAIL ADDRESS (Optional) mail@braytonlaw.com ATTORNEY FOR (Name) PLAINTIFF</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, 94102 BRANCH NAME:</p> <p>PLAINTIFF/PETITIONER: Ysidro Limon, Sr. DEFENDANT/RESPONDENT: AMCORD, INC, et al.</p>	<p>FOR COURT USE ONLY</p> <p>DEFAULT ENTERED AS REQUESTED</p> <p>ELECTRONICALLY FILED Superior Court of California, County of San Francisco MAY 13 2015 Clerk of the Court BY: NADITA MASON Deputy Clerk</p>
<p>REQUEST FOR <input checked="" type="checkbox"/> Entry of Default <input type="checkbox"/> Clerk's Judgment <input type="checkbox"/> Court Judgment</p>	CASE NUMBER: CGC-15-276378

1. TO THE CLERK: On the complaint or cross-complaint filed
 - a. on (date): January 02, 2015
 - b. by (name): Ysidro Limon, Sr.
 - c. Enter default of defendant (names): Carroll Duncan & Co.
- d. I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)

- e. Enter clerk's judgment
 - (1) for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
 - Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *Predjudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
 - (2) under Code of Civil Procedure section 585(a). (*Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).*)
 - (3) for default previously entered on (date):

2. Judgment to be entered.

	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint	\$	\$	\$
b. Statement of damages *			
(1) Special	\$	\$	\$
(2) General	\$	\$	\$
c. Interest	\$	\$	\$
d. Costs (see reverse)	\$	\$	\$
e. Attorney fees	\$	\$	\$
f. TOTALS	\$	\$	\$

g. Daily damages were demanded in complaint at the rate of: \$ per day beginning (date):
(* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

3. (Check if filed in an unlawful detainer case) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).

MAY 13 2015 David R. Donadio
(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)



- (1) Default entered as requested on (date):
(2) Default NOT entered as requested (state reason):

Clerk, by _____ Deputy _____

Page 1 of 2

PLAINTIFF/PETITIONER: Ysidro Limon, Sr.	CASE NUMBER: CGC-15-276378
DEFENDANT/RESPONDENT: AMCORD, INC., et al.	

4. Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.). A legal document assistant or unlawful detainer assistant did did not for compensation give advice or assistance with this form.
(If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state):

- a. Assistant's name:
- b. Street address, city, and zip code:
- c. Telephone no.:
- d. County of registration:
- e. Registration no.:
- f. Expires on (date):

5. Declaration under Code of Civil Procedure Section 585.5 (required for entry of default under Code Civ. Proc., § 585(a)). This action

- a. is is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
- b. is is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
- c. is is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

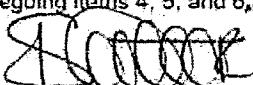
6. Declaration of mailing (Code Civ. Proc., § 587). A copy of this Request for Entry of Default was

- a. not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names): Carroll Duncan & Co.
- b. mailed first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:

(1) Mailed on (date): (2) To (specify names and addresses shown on the envelopes):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6, are true and correct.
Date:

MAY 13 2015 Sandie Dietler


(SIGNATURE OF DECLARANT)

7. Memorandum of costs (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

a. Clerk's filing fees	\$
b. Process server's fees	\$
c. Other (specify):	\$
d.	\$
e. TOTAL	\$

f. Costs and disbursements are waived.

g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

8. Declaration of nonmilitary status (required for a judgment). No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): David R. Donadio (State Bar # 154436) Brayton > Purcell 222 Rush Landing Rd., Novato, California 94948-6169 TELEPHONE NO.: (415) 898-1555 FAX NO. (Optional): (415) 898-1247 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff(s)		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME:		ELECTRONICALLY FILED Superior Court of California, County of San Francisco MAR 25 2015 Clerk of the Court BY: ANNIE PASCUAL
PLAINTIFF/PETITIONER: Ysidro Limón, Sr. DEFENDANT/RESPONDENT: Amcord, Inc., et.al.		CASE NUMBER: Deputy Clerk CCG-15-276378
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.: GRP. 1255

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. summons
 - b. complaint
 - c. Alternative Dispute Resolution (ADR) package
 - d. Civil Case Cover Sheet (*served in complex cases only*)
 - e. cross-complaint
 - f. other (*specify documents*): Statement of Damages, Notice of Status Conference, Preliminary Fact Sheet, Order Directing Service to California Secretary of State
3. a. Party served (*specify name of party as shown on documents served*):

Carroll Duncan & Co.

b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (*specify name and relationship to the party named in item 3a*):
Debbie Arcuri, Authorized Agent for Service
4. Address where the party was served: California Secretary of State
1500 11th Street
Sacramento, CA 95814
5. I served the party (check proper box)
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party. (1) on (date): 3/12/15 (2) at (time): 4:09pm
 - b. by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (*name and title or relationship to person indicated in item 3*):
 - (1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or a declaration of mailing is attached.
 - (5) I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: Ysidro Limon, Sr.	CASE NUMBER: CGC-15-276378
DEFENDANT/RESPONDENT: Amcord, Inc., et al.	

5. c. by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid.
- (1) on (date): _____ (2) from (city): _____
- (3) with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgement of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

- d. by other means (specify means of service and authorizing code section): _____

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
 b. as the person sued under the fictitious name of (specify): _____
 c. as occupant.
 d. On behalf of (specify): Carroll Duncan & Co.

under the following Code of Civil Procedure section:

- | | |
|-------------------------------------------------------------------|-----------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: _____ |

7. Person who served papers

- a. Name: Monica Lepe
 b. Address: 222 Rush Landing Road, Novato, CA 94948
 c. Telephone number: _____
 d. The fee for service was: \$ _____
 e. I am:

- (1) not a registered California process server.
 (2) exempt from registration under Business and Professions Code section 22350(b).
 (3) a registered California process server:
 (i) owner employee independent contractor.
 (ii) Registration No.: _____
 (iii) County: _____

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 3/18/15

Monica Lepe

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

State of California

Secretary of State

It is hereby certified that:

on March 12, 2015, at 4:09 pm, one copy of the Court Order, Summons, Statement of Damages, Civil Cover Sheet, Notice to Plaintiff, Complaint, in the case of:

YSIDRO LIMON, SR. vs. AMCORD, INC., et al., Superior Court of California, County of San Francisco, Asbestos No. CGC-15-276378

were delivered by hand to Debbie Arcuri Deputy Secretary of State, for the purpose of serving and forwarding the documents to the defendant CARROLL DUNCAN & CO. (official name of record).

In accordance with statute, on March 19, 2015, the Secretary of State forwarded one copy of each of the above-listed documents to: CARROLL DUNCAN & CO. at 2775 CUMBERLAND RD., SAN MARINO, CALIFORNIA 91108 by certified mail, return receipt requested.

IN WITNESS WHEREOF, the Great Seal of the State of California is hereto affixed this March 20, 2015.

ALEX PADILLA, Secretary of State

By


Jana Castro
Deputy Secretary of State



ALEX PADILLA
Secretary of State



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
BUSINESS PROGRAMS | BUSINESS ENTITIES
1500 11th Street, 3rd floor | Sacramento, CA 95814 | Tel 916.657.5448 | www.sos.ca.gov

RECORD OF SERVICE OF PROCESS

SANDIE DIETLER
c/o BRAYTON PURCELL LLP
222 RUSH LANDING ROAD
NOVATO, CA 94945

RE: YSIDRO LIMON, SR. vs. AMCORD, INC., et al., Superior Court of California,
County of San Francisco, Asbestos No. CGC-15-276378

Service forwarded to Defendant:

CARROLL DUNCAN & CO.
(official name of record)
2775 CUMBERLAND RD.
SAN MARINO, CALIFORNIA 91108

Date Forwarded: March 19, 2015

Process Server: Monica Lepe

Date Served: March 12, 2015 Time: 4:09 pm

Deputy Secretary of State Served: Debbie Arcuri

Documents Served: one copy of the Court Order, Summons, Statement of Damages, Civil Cover Sheet, Notice to Plaintiff, Complaint.

FEES:	Receipt of Process Against Defendant:	\$ 50.00
	Certificate(s) of Service:	\$ 5.00
	Total Charges:	\$ 55.00
	Amount Received:	\$ 55.00
	Refund:	\$ 0.00

Prepared by:

A handwritten signature in black ink, appearing to read "Jana Castro".

Jana Castro
Date: March 19, 2015



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
BUSINESS PROGRAMS | BUSINESS ENTITIES
1500 11th Street, 3rd floor | Sacramento, CA 95814 | Tel 916.657.5448 | www.sos.ca.gov

RECORD OF SERVICE OF PROCESS

SANDIE DIETLER
c/o BRAYTON PURCELL LLP
222 RUSH LANDING ROAD
NOVATO, CA 94945

RE: YSIDRO LIMON, SR. vs. AMCORD, INC., et al., Superior Court of California,
County of San Francisco, Asbestos No. CGC-15-276378

Service forwarded to Defendant:

CARROLL DUNCAN & CO.
(official name of record)
2775 CUMBERLAND RD.
SAN MARINO, CALIFORNIA 91108

Date Forwarded: March 19, 2015

Process Server: Monica Lepe

Date Served: March 12, 2015 Time: 4:09 pm

Deputy Secretary of State Served: Debbie Arcuri

Documents Served: one copy of the Court Order, Summons, Statement of Damages, Civil Cover Sheet, Notice to Plaintiff, Complaint.

FEES:	Receipt of Process Against Defendant:	\$ 50.00
	Certificate(s) of Service:	\$ 5.00
	Total Charges:	\$ 55.00
	Amount Received:	\$ 55.00
	Refund:	\$ 0.00

Prepared by:

A handwritten signature in black ink, appearing to read "Jana Castro".

Jana Castro

Date: March 19, 2015

- DO NOT FILE WITH THE COURT -

- UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): DAVID R. DONADIO, ESQ. (Bar # 154436) BRAYTON•PURCELL LLP 222 Rush Landing Road Novato, California 94948-6169 ATTORNEY FOR Plaintiff(s)		TELEPHONE NO. (415) 898-1555 FAX NO. (415) 898-1247	ELECTRONICALLY FILED <i>Superior Court of California, County of San Francisco</i> MAY 13 2015 <i>Clerk of the Court BY: NADITA MASON Deputy Clerk</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco 94102 BRANCH NAME:			
PLAINTIFF: YSIDRO LIMON, SR. DEFENDANT: AMCORD, INC., et al.		CASE NUMBER: CGC-15-276378	
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)			

To (name of one defendant only): CARROLL DUNCAN & CO.

Plaintiff (name of one plaintiff only): YSIDRO LIMON, SR.
seeks damages in the above-entitled action, as follows:

1. General damages

- | | AMOUNT |
|-----------------------------------------------------------------------------------------------------------|---------------|
| a. <input checked="" type="checkbox"/> Pain, suffering, and inconvenience | \$ 250,000.00 |
| b. <input checked="" type="checkbox"/> Emotional distress | \$ 500,000.00 |
| c. <input type="checkbox"/> Loss of consortium | \$ _____ |
| d. <input type="checkbox"/> Loss of society and companionship(<i>wrongful death actions only</i>) | \$ _____ |
| e. <input type="checkbox"/> Other (specify) | \$ _____ |
| f. <input type="checkbox"/> Other (specify) | \$ _____ |
| g. <input type="checkbox"/> Continued on Attachment 1.g. | |

2. Special damages

- | | |
|-------------------------------------------------------------------------------------------------------------------------|---------------|
| a. <input checked="" type="checkbox"/> Medical expenses (<i>to date</i>) | \$ 100,000.00 |
| b. <input checked="" type="checkbox"/> Future medical expenses (<i>present value</i>) | \$ 350,000.00 |
| c. <input checked="" type="checkbox"/> Loss of earnings (<i>to date</i>) | \$ 100,000.00 |
| d. <input checked="" type="checkbox"/> Loss of future earning capacity (<i>present value</i>) | \$ 300,000.00 |
| e. <input type="checkbox"/> Property damage | \$ _____ |
| f. <input type="checkbox"/> Funeral expenses (<i>wrongful death actions only</i>) | \$ _____ |
| g. <input type="checkbox"/> Future contributions (<i>present value</i>) (<i>wrongful death actions only</i>) | \$ _____ |
| h. <input type="checkbox"/> Value of personal service, advice, or training (<i>wrongful death actions only</i>) | \$ _____ |
| i. <input checked="" type="checkbox"/> Other (specify) LOSS OF HOUSEHOLD SERVICES | \$ 100,000.00 |
| j. <input type="checkbox"/> Other (specify) | \$ _____ |
| k. <input type="checkbox"/> Continued on Attachment 2.k. | |

3. **Punitive damages:** Plaintiff reserves the right to seek punitive damages in the amount of (specify). \$ _____

when pursuing a judgment in the suit filed against you.

Date: January 8, 2015

David R. Donadio

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

(Proof of service on reverse)

EXHIBIT B2

<small>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and license #)</small> David R. Donadio, Esq., S.B. #154436 Brayton & Purcell LLP 222 Rush Landing Road Novato, California 94948 <small>TELEPHONE NO.: 415-898-1555 FAX NO. (Optional) 415-898-1247</small> <small>E-MAIL ADDRESS (Optional) mail@braytonlaw.com</small> <small>ATTORNEY FOR (name): PLAINTIFF</small>		<small>FOR COURT USE ONLY</small> DEFAULT ENTERED AS REQUESTED ELECTRONICALLY FILED <i>Superior Court of California, County of San Francisco</i> MAY 13 2015 Clerk of the Court BY: NADITA MASON <small>Deputy Clerk</small>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO <small>STREET ADDRESS: 400 McAllister Street MAILING ADDRESS CITY AND ZIP CODE: San Francisco, 94102 BRANCH NAME:</small>		
<small>PLAINTIFF/PETITIONER: Ysidro Limon, Sr.</small> <small>DEFENDANT/RESPONDENT: AMCORD, INC, et al.</small>		
<small>REQUEST FOR (Application)</small>	<input checked="" type="checkbox"/> Entry of Default <input type="checkbox"/> Court Judgment	<small>CASE NUMBER:</small> CGC-15-276378

1. TO THE CLERK: On the complaint or cross-complaint filed
 - a. on (date): January 02, 2015
 - b. by (name): Ysidro Limon, Sr.
 - c. Enter default of defendant (names): C.F. Bolster Company
 - d. I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)

- e. Enter clerk's judgment
 - (1) for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
 Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The Prejudgment Claim of Right to Possession was served in compliance with Code of Civil Procedure section 415.46.
 - (2) under Code of Civil Procedure section 585(a). (*Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).*)
 - (3) for default previously entered on (date):

2. Judgment to be entered.

	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint	\$	\$	\$
b. Statement of damages *			
(1) Special	\$	\$	\$
(2) General	\$	\$	\$
c. Interest	\$	\$	\$
d. Costs (see reverse)	\$	\$	\$
e. Attorney fees	\$	\$	\$
f. TOTALS	<u>\$</u>	<u>\$</u>	<u>\$</u>

g. Daily damages were demanded in complaint at the rate of: \$ per day beginning (date):
 (* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

3. (Check if filed in an unlawful detainer case) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).

Date: **MAY 13 2015** David R. Donadio
(TYPE OR PRINT NAME)

(Signature of Plaintiff or Attorney for Plaintiff)

- (1) Default entered as requested on (date):
 (2) Default NOT entered as requested (state reason):

FOR COURT USE ONLY Clerk, by _____, Deputy

PLAINTIFF/PETITIONER: Ysidro Limon, Sr.	CASE NUMBER: CGC-15-276378
DEFENDANT/RESPONDENT: AMCORD, INC., et al.	

4. Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.). A legal document assistant or unlawful detainer assistant did did not for compensation give advice or assistance with this form.
(If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state):

- a. Assistant's name:
- b. Street address, city, and zip code:
- c. Telephone no.:
- d. County of registration:
- e. Registration no.:
- f. Expires on (date):

5. Declaration under Code of Civil Procedure Section 585.5 (required for entry of default under Code Civ. Proc., § 585(a)). This action

- a. is is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
- b. is is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
- c. is is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

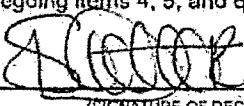
6. Declaration of mailing (Code Civ. Proc., § 587). A copy of this *Request for Entry of Default* was

- a. not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names): C.F. Bolster Company
 - b. mailed first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
- (1) Mailed on (date): (2) To (specify names and addresses shown on the envelopes):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.
Date:

MAY 13 2015 Sandie Dietler

(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

7. Memorandum of costs (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

a. Clerk's filing fees	\$
b. Process server's fees	\$
c. Other (specify):	\$
d.	\$
e. TOTAL	\$

f. Costs and disbursements are waived.

g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

8. Declaration of nonmilitary status (required for a judgment). No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): David R. Donadio (State Bar # 154436) Brayton > Purcell 222 Rush Landing Rd., Novato, California 94948-6169 TELEPHONE NO.: (415) 898-1555 FAX NO. (Optional): (415) 898-1247 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff(s)		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME:		ELECTRONICALLY FILED <i>Superior Court of California, County of San Francisco</i> MAR 25 2015 Clerk of the Court BY: ANNIE PASCUAL CASE NUMBER: Deputy Clerk CGC-15-276378 Ref. No. or File No.: GRP. 1255
PLAINTIFF/PETITIONER: Ysidro Limon, Sr. DEFENDANT/RESPONDENT: Amcord, Inc., et.al.		
PROOF OF SERVICE OF SUMMONS		

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. summons
 - b. complaint
 - c. Alternative Dispute Resolution (ADR) package
 - d. Civil Case Cover Sheet (*served in complex cases only*)
 - e. cross-complaint
 - f. other (*specify documents*): Statement of Damages, Notice of Status Conference, Preliminary Fact Sheet, Order Directing Service to California Secretary of State
3. a. Party served (*specify name of party as shown on documents served*):

C.F. Bolster Company

b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (*specify name and relationship to the party named in item 3a*):
 Debbie Arcuri, Authorized Agent for Service
4. Address where the party was served: California Secretary of State
 1500 11th Street
 Sacramento, CA 95814
5. I served the party (*check proper box*)
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 3/12/15 (2) at (time): 4:09pm
 - b. by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (*name and title or relationship to person indicated in item 3*):
 - (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) (**home**) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) (**physical address unknown**) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or a declaration of mailing is attached.
 - (5) I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: Ysidro Limon, Sr.	CASE NUMBER:
DEFENDANT/RESPONDENT: Amcord, Inc., et.al.	CGC-15-276378

5. c. by mail and acknowledgment of receipt of service, I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): _____ (2) from (city): _____
- (3) with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

- d. by other means (specify means of service and authorizing code section): _____

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
- b. as the person sued under the fictitious name of (specify): _____
- c. as occupant.
- d. On behalf of (specify): C.F. Bolster Company
under the following Code of Civil Procedure section:

- | | |
|-------------------------------------------------------------------|-----------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: _____ |

7. Person who served papers

- a. Name: Monica Lepe
- b. Address: 222 Rush Landing Road, Novato, CA 94948
- c. Telephone number: _____
- d. The fee for service was: \$ _____
- e. I am:

- (1) not a registered California process server.
- (2) exempt from registration under Business and Professions Code section 22350(b).
- (3) a registered California process server:
 - (i) owner employee independent contractor.
 - (ii) Registration No.: _____
 - (iii) County: _____

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 3/18/15

Monica Lepe

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
BUSINESS PROGRAMS | BUSINESS ENTITIES
1500 11th Street, 3rd floor | Sacramento, CA 95814 | Tel 916.657.5448 | www.sos.ca.gov

RECORD OF SERVICE OF PROCESS

SANDIE DIETLER
c/o BRAYTON PURCELL LLP
222 RUSH LANDING RD
NOVATO, CA 94945

RE: YSIDRO LIMON, SR. vs. AMCORD, INC., et al., Superior Court of California,
County of San Francisco, Asbestos No. CGC-15-276378

Service forwarded to Defendant:

C. F. BOLSTER COMPANY
(official name of record)
5020 BLEECKER ST
BALDWIN PARK, CALIFORNIA 91706

Date Forwarded: March 19, 2015

Process Server: Monica Lepe

Date Served: March 12, 2015 Time: 4:09 pm

Deputy Secretary of State Served: Debbie Arcuri

Documents Served: one copy of the Court Order, Summons, Statement of Damages,
Civil Cover Sheet, Notice to Plaintiff, Complaint.

FEES:	Receipt of Process Against Defendant:	\$ 50.00
	Certificate(s) of Service:	\$ 5.00
	Total Charges:	\$ 55.00
	Amount Received:	\$ 55.00
	Refund:	\$ 0.00

Prepared by:


Jana Castro
Date: March 19, 2015



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
BUSINESS PROGRAMS | BUSINESS ENTITIES
1500 4th Street, 3rd floor | Sacramento, CA 95814 | Tel 916.657.5448 | www.sos.ca.gov

RECORD OF SERVICE OF PROCESS

SANDIE DIETLER
c/o BRAYTON PURCELL LLP
222 RUSH LANDING RD
NOVATO, CA 94945

RE: YSIDRO LIMON, SR. vs. AMCORD, INC., et al., Superior Court of California,
County of San Francisco, Asbestos No. CGC-15-276378

Service forwarded to Defendant:

C. F. BOLSTER COMPANY
(official name of record)
5020 BLEECKER ST
BALDWIN PARK, CALIFORNIA 91706

Date Forwarded: March 19, 2015

Process Server: Monica Lepe

Date Served: March 12, 2015 Time: 4:09 pm

Deputy Secretary of State Served: Debbie Arcuri

Documents Served: one copy of the Court Order, Summons, Statement of Damages,
Civil Cover Sheet, Notice to Plaintiff, Complaint.

FEES:	Receipt of Process Against Defendant:	\$ 50.00
	Certificate(s) of Service:	\$ 5.00
	Total Charges:	\$ 55.00
	Amount Received:	\$ 55.00
	Refund:	\$ 0.00

Prepared by:


Jana Castro
Date: March 19, 2015

State of California

Secretary of State

It is hereby certified that:

on March 12, 2015, at 4:09 pm, one copy of the Court Order, Summons, Statement of Damages, Civil Cover Sheet, Notice to Plaintiff, Complaint, in the case of:

YSIDRO LIMON, SR. vs. AMCORD, INC., et al., Superior Court of California, County of San Francisco, Asbestos No. CGC-15-276378

were delivered by hand to Debbie Arcuri, Deputy Secretary of State, for the purpose of serving and forwarding the documents to the defendant C. F. BOLSTER COMPANY (official name of record).

In accordance with statute, on March 19, 2015, the Secretary of State forwarded one copy of each of the above-listed documents to: C. F. BOLSTER COMPANY at 5020 BLEECKER ST, BALDWIN PARK, CALIFORNIA 91706 by certified mail, return receipt requested.

IN WITNESS WHEREOF, the Great Seal of the State of California is hereto affixed
this March 20, 2015.

ALEX PADILLA, Secretary of State

By

Jana Castro
Deputy Secretary of State



ALEX PADILLA
Secretary of State

- DO NOT FILE WITH THE COURT -

- UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): DAVID R. DONADIO, ESQ. (Bar # 154436) BRAYTON•PURCELL LLP 222 Rush Landing Road Novato, California 94948-6169 ATTORNEY FOR Plaintiff(s)		TELEPHONE NO. (415) 898-1555 FAX NO. (415) 898-1247	ELECTRONICALLY FILED <i>Superior Court of California, County of San Francisco</i> MAY 13 2015 <i>Clerk of the Court</i> <i>BY: NADITA MASON</i> <i>Deputy Clerk</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco 94102 BRANCH NAME:			
PLAINTIFF: YSIDRO LIMON, SR. DEFENDANT: AMCORD, INC., et al.		CASE NUMBER: CGC-15-276378	
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)			

To (name of one defendant only): **C.F. BOLSTER COMPANY**Plaintiff (name of one plaintiff only): **YSIDRO LIMON, SR.**
seeks damages in the above-entitled action, as follows:**1. General damages**

- | | AMOUNT |
|-----------------------------------------------------------------------------------------------------------|---------------|
| a. <input checked="" type="checkbox"/> Pain, suffering, and inconvenience | \$ 250,000.00 |
| b. <input checked="" type="checkbox"/> Emotional distress | \$ 500,000.00 |
| c. <input type="checkbox"/> Loss of consortium | \$ _____ |
| d. <input type="checkbox"/> Loss of society and companionship(<i>wrongful death actions only</i>) | \$ _____ |
| e. <input type="checkbox"/> Other (<i>specify</i>) | \$ _____ |
| f. <input type="checkbox"/> Other (<i>specify</i>) | \$ _____ |
| g. <input type="checkbox"/> Continued on Attachment 1.g. | |

2. Special damages

- | | |
|-------------------------------------------------------------------------------------------------------------------------|---------------|
| a. <input checked="" type="checkbox"/> Medical expenses (<i>to date</i>) | \$ 100,000.00 |
| b. <input checked="" type="checkbox"/> Future medical expenses (<i>present value</i>) | \$ 350,000.00 |
| c. <input checked="" type="checkbox"/> Loss of earnings (<i>to date</i>) | \$ 100,000.00 |
| d. <input checked="" type="checkbox"/> Loss of future earning capacity (<i>present value</i>) | \$ 300,000.00 |
| e. <input type="checkbox"/> Property damage | \$ _____ |
| f. <input type="checkbox"/> Funeral expenses (<i>wrongful death actions only</i>) | \$ _____ |
| g. <input type="checkbox"/> Future contributions (<i>present value</i>) (<i>wrongful death actions only</i>) | \$ _____ |
| h. <input type="checkbox"/> Value of personal service, advice, or training (<i>wrongful death actions only</i>) | \$ _____ |
| i. <input checked="" type="checkbox"/> Other (<i>specify</i>) LOSS OF HOUSEHOLD SERVICES | \$ 100,000.00 |
| j. <input type="checkbox"/> Other (<i>specify</i>) | \$ _____ |
| k. <input type="checkbox"/> Continued on Attachment 2.k. | |

3. **Punitive damages:** Plaintiff reserves the right to seek punitive damages in the amount of (*specify*). \$ _____

when pursuing a judgment in the suit filed against you.

Date: **January 8, 2015**David R. Donadio

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

(Proof of service on reverse)

EXHIBIT B3

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) David R. Donadio, Esq., S.B. #154436 Brayton & Purcell LLP 222 Rush Landing Road Novato, California 94948 TELEPHONE NO. 415-898-1555 FAX NO. (Optional) 415-898-1247 E-MAIL ADDRESS (Optional) mail@braytonlaw.com ATTORNEY FOR (Name) PLAINTIFF</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, 94102 BRANCH NAME:</p> <p>PLAINTIFF/PETITIONER: Ysidro Limon, Sr. DEFENDANT/RESPONDENT: Amcord, Inc., et al.</p>	<p>FOR COURT USE ONLY</p> <p>DEFAULT ENTERED AS REQUESTED</p> <p>ELECTRONICALLY FILED</p> <p><i>Superior Court of California, County of San Francisco</i></p> <p>06/02/2015 Clerk of the Court BY: NADITA MASON Deputy Clerk</p>
<p>REQUEST FOR <input checked="" type="checkbox"/> Entry of Default <input type="checkbox"/> Clerk's Judgment <input type="checkbox"/> Court Judgment</p>	<p>CASE NUMBER: CGC-15-276378</p>

1. TO THE CLERK: On the complaint or cross-complaint filed
 - a. on (date): January 02, 2015
 - b. by (name): Ysidro Limon, Sr.
 - c. Enter default of defendant (names): E.S. Browning Co.
 - d. I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)

- e. Enter clerk's judgment
 - (1) for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
 - Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *PJudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
 - (2) under Code of Civil Procedure section 585(a). (*Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).*)
 - (3) for default previously entered on (date):

2. Judgment to be entered.	Amount	Credits acknowledged	Balance
a. Demand of complaint	\$	\$	\$
b. Statement of damages *	\$	\$	\$
(1) Special	\$	\$	\$
(2) General	\$	\$	\$
c. Interest	\$	\$	\$
d. Costs (see reverse)	\$	\$	\$
e. Attorney fees	\$	\$	\$
f. TOTALS	\$	\$	\$

g. Daily damages were demanded in complaint at the rate of: \$ per day beginning (date):
(Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)*

3. (Check if filed in an unlawful detainer case) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).

Date: JUN 02 2015 David R. Donadio

(TYPE OR PRINT NAME) (SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

- (1) Default entered as requested on (date):
 (2) Default NOT entered as requested (state reason):

FOR COURT USE ONLY Clerk, by _____ Deputy _____

PLAINTIFF/PETITIONER: Ysidro Limon, Sr. DEFENDANT/RESPONDENT: Amcord, Inc., et. al.	CASE NUMBER: CGC-15-276378
----------------------------------------------------------------------------------------	-------------------------------

4. Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.). A legal document assistant or unlawful detainer assistant did did not for compensation give advice or assistance with this form. (*If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state:*)

- a. Assistant's name:
- b. Street address, city, and zip code:
- c. Telephone no.:
- d. County of registration:
- e. Registration no.:
- f. Expires on (date):

5. Declaration under Code of Civil Procedure Section 585.5 (required for entry of default under Code Civ. Proc., § 585(a)). This action

- a. is is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
- b. is is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
- c. is is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

6. Declaration of mailing (Code Civ. Proc., § 587). A copy of this Request for Entry of Default was

- a. not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names): E.S. Browning Co.
- b. mailed first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:

(1) Mailed on (date): (2) To (specify names and addresses shown on the envelopes):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.

Date: JUN 02 2015

Teddy Vath

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

7. Memorandum of costs (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- a. Clerk's filing fees
- b. Process server's fees
- c. Other (specify):
- d.
- e. TOTAL

f. Costs and disbursements are waived.

g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

8. Declaration of nonmilitary status (required for a judgment). No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): David R. Donadio (State Bar # 154436) Brayton & Purcell 222 Rush Landing Rd., Novato, California 94948-6169 TELEPHONE NO. (415) 898-1555 FAX NO. (optional) (415) 898-1247 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff(s)		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME:		ELECTRONICALLY FILED Superior Court of California, County of San Francisco MAR 25 2015 Clerk of the Court BY: ANNIE PASCUAL
PLAINTIFF/PETITIONER: Ysidro Limon, Sr. DEFENDANT/RESPONDENT: Amcord, Inc., et.al.		CASE NUMBER: Deputy Clerk CGC-15-276378
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.: GRP. 1255

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. summons
 - b. complaint
 - c. Alternative Dispute Resolution (ADR) package
 - d. Civil Case Cover Sheet (served in complex cases only)
 - e. cross-complaint
 - f. other (specify documents): Statement of Damages, Notice of Status Conference, Preliminary Fact Sheet, Order Directing Service to California Secretary of State.
3. a. Party served (specify name of party as shown on documents served):

E.S. Browning Co.

- b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
 Debbie Arcuri, Authorized Agent for Service

4. Address where the party was served: California Secretary of State
 1500 11th Street
 Sacramento, CA 95814

5. I served the party (check proper box).

- a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 3/12/15 (2) at (time): 4:09pm

- b. by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(2) (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.

(3) (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or a declaration of mailing is attached.

(5) I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: Ysidro Limon, Sr.	CASE NUMBER:
DEFENDANT/RESPONDENT: Amcord, Inc., et.al.	CGC-15-276378

5. c. by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): _____ (2) from (city): _____
- (3) with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgement of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. by other means (specify means of service and authorizing code section): _____

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
- b. as the person sued under the fictitious name of (specify): _____
- c. as occupant.
- d. On behalf of (specify): E.S. Browning Co.

under the following Code of Civil Procedure section:

- | | |
|-------------------------------------------------------------------|-----------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: _____ |

7. Person who served papers

- a. Name: Monica Lepe
- b. Address: 222 Rush Landing Road, Novato, CA 94948
- c. Telephone number: _____
- d. The fee for service was: \$ _____
- e. I am:
 - (1) not a registered California process server.
 - (2) exempt from registration under Business and Professions Code section 22350(b).
 - (3) a registered California process server:
 - (i) owner employee independent contractor.
 - (ii) Registration No.: _____
 - (iii) County: _____

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

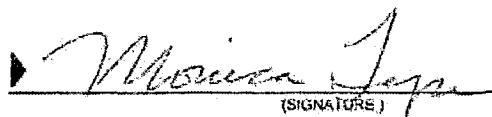
or

9. I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 3/18/15

Monica Lepe

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
BUSINESS PROGRAMS | BUSINESS ENTITIES
1500 11th Street, 3rd floor | Sacramento, CA 95814 | Tel 916.657.5448 | www.sos.ca.gov

RECORD OF SERVICE OF PROCESS

SANDIE DIETLER
c/o BRAYTON PURCELL LLP
222 RUSH LANDING ROAD
NOVATO, CA 94945

RE: YSIDRO LIMON, SR. vs. AMCORD, INC., et al., Superior Court of California,
County of San Francisco, Asbestos No. CGC-15-276378

Service on Defendant:

E. S. BROWNING CO.
(official name of record)
No known address of record
No action taken by this office

Date Processed: March 18, 2015

Process Server: Monica Lepe

Date Served: March 12, 2015 Time: 4:09 pm

Deputy Secretary of State Served: Debbie Arcuri

Documents Served: one copy of the Court Order, Summons, Statement of Damages,
Civil Cover Sheet, Notice to Plaintiff, Complaint.

FEES:	Receipt of Process Against Defendant:	\$ 50.00
	Certificate(s) of Service:	\$ 5.00
	Total Charges:	\$ 55.00
	Amount Received:	\$ 55.00
	Refund:	\$ 0.00

Prepared by:


Jana Castro

Date: March 18, 2015



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
BUSINESS PROGRAMS | BUSINESS ENTITIES
1500 11th Street, 3rd floor | Sacramento, CA 95814 | Tel 916.657.5448 | www.sos.ca.gov

RECORD OF SERVICE OF PROCESS

SANDIE DIETLER
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222 RUSH LANDING ROAD
NOVATO, CA 94945

RE: YSIDRO LIMON, SR. vs. AMCORD, INC., et al., Superior Court of California,
County of San Francisco, Asbestos No. CGC-15-276378

Service on Defendant:

E. S. BROWNING CO.
(official name of record)
No known address of record
No action taken by this office

Date Processed: March 18, 2015

Process Server: Monica Lepe

Date Served: March 12, 2015 Time: 4:09 pm

Deputy Secretary of State Served: Debbie Arcuri

Documents Served: one copy of the Court Order, Summons, Statement of Damages, Civil Cover Sheet, Notice to Plaintiff, Complaint.

FEES:	Receipt of Process Against Defendant:	\$ 50.00
	Certificate(s) of Service:	\$ 5.00
	Total Charges:	\$ 55.00
	Amount Received:	\$ 55.00
	Refund:	\$ 0.00

Prepared by:

A handwritten signature in black ink, appearing to read "Jana Castro".

Jana Castro

Date: March 18, 2015

State of California

Secretary of State

It is hereby certified that:

on March 12, 2015, at 4:09 pm, one copy of the Court Order, Summons, Statement of Damages, Civil Cover Sheet, Notice to Plaintiff, Complaint, in the case of:

YSIDRO LIMON, SR. vs. AMCORD, INC., et al., Superior Court of California, County of San Francisco, Asbestos No. CGC-15-276378

were delivered by hand to Debbie Arcuri, Deputy Secretary of State, for the purpose of serving and forwarding the documents to the defendant E. S. BROWNING CO..

Upon receipt of the above referenced documents, the Secretary of State had no address for the principal executive office for this corporation and no record of an agent for service of process; therefore, pursuant to Section 1702(b), California Corporations Code, no action was taken by the Secretary of State.

IN WITNESS WHEREOF, the Great Seal of the State of California is hereto affixed this March 18, 2015.

ALEX PADILLA, Secretary of State

By

Jana Castro
Deputy Secretary of State



ALEX PADILLA
Secretary of State

- DO NOT FILE WITH THE COURT -

- UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): DAVID R. DONADIO, ESQ. (Bar # 154436) BRAYTON•PURCELL LLP 222 Rush Landing Road Novato, California 94948-6169 ATTORNEY FOR Plaintiff(s)		TELEPHONE NO. (415) 898-1555 FAX NO. (415) 898-1247	ELECTRONICALLY FILED <i>Superior Court of California, County of San Francisco</i> 06/02/2015 Clerk of the Court BY: NADITA MASON Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco 94102 BRANCH NAME:		PLAINTIFF: YSIDRO LIMON, SR. DEFENDANT: AMCORD, INC., et al.	
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)		CASE NUMBER: CGC-15-276378	

To (name of one defendant only): E.S. BROWNING CO.

Plaintiff (name of one plaintiff only): **YSIDRO LIMON, SR.**
seeks damages in the above-entitled action, as follows:

1. General damages

- | | AMOUNT |
|--------------------------------------------------------------------------------------------------|---------------|
| a. <input checked="" type="checkbox"/> Pain, suffering, and inconvenience | \$ 250,000.00 |
| b. <input checked="" type="checkbox"/> Emotional distress | \$ 500,000.00 |
| c. <input type="checkbox"/> Loss of consortium | \$ _____ |
| d. <input type="checkbox"/> Loss of society and companionship(wrongful death actions only) | \$ _____ |
| e. <input type="checkbox"/> Other (specify) | \$ _____ |
| f. <input type="checkbox"/> Other (specify) | \$ _____ |
| g. <input type="checkbox"/> Continued on Attachment 1.g. | |

2. Special damages

- | | |
|---------------------------------------------------------------------------------------------------------------|---------------|
| a. <input checked="" type="checkbox"/> Medical expenses (to date) | \$ 100,000.00 |
| b. <input checked="" type="checkbox"/> Future medical expenses (present value). | \$ 350,000.00 |
| c. <input checked="" type="checkbox"/> Loss of earnings (to date)..... | \$ 100,000.00 |
| d. <input checked="" type="checkbox"/> Loss of future earning capacity (present value).... | \$ 300,000.00 |
| e. <input type="checkbox"/> Property damage | \$ _____ |
| f. <input type="checkbox"/> Funeral expenses (wrongful death actions only).... | \$ _____ |
| g. <input type="checkbox"/> Future contributions (present value) (wrongful death actions only)..... | \$ _____ |
| h. <input type="checkbox"/> Value of personal service, advice, or training (wrongful death actions only)..... | \$ _____ |
| i. <input checked="" type="checkbox"/> Other (specify) LOSS OF HOUSEHOLD SERVICES | \$ 100,000.00 |
| j. <input type="checkbox"/> Other (specify) | \$ _____ |
| k. <input type="checkbox"/> Continued on Attachment 2.k. | |

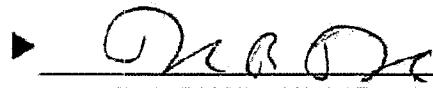
3. **Punitive damages:** Plaintiff reserves the right to seek punitive damages in the amount of (specify). \$ _____

when pursuing a judgment in the suit filed against you.

Date: January 8, 2015

David R. Donadio

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

(Proof of service on reverse)

EXHIBIT B4

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

David R. Donadio, Esq., S.B. #154436
 Brayton & Purcell LLP
 222 Rush Landing Road
 Novato, California 94948

TELEPHONE NO.: 415-898-1555

FAX NO. (Optional): 415-898-1247

E-MAIL ADDRESS (Optional): mail@braytonlaw.com
ATTORNEY FOR (Name) PLAINTIFF

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

STREET ADDRESS: 400 McAllister Street

MAILING ADDRESS:

CITY AND ZIP CODE: San Francisco, 94102

BRANCH NAME:

PLAINTIFF/PETITIONER: Ysidro Limon, Sr.

DEFENDANT/RESPONDENT: AMCORD, INC, et al.

REQUEST FOR
(Application) Entry of Default Clerk's Judgment Court Judgment

CASE NUMBER:

CGC-15-276378

DEFAULT ENTERED
AS REQUESTEDELECTRONICALLY
FILEDSuperior Court of California,
County of San Francisco

08/06/2015

Clerk of the Court

BY:TJ MOROHOSHI

Deputy Clerk

1. TO THE CLERK: On the complaint or cross-complaint filed
 - a. on (date): January 02, 2015
 - b. by (name): Ysidro Limon, Sr.
 - c. Enter default of defendant (names): K & R Automotive
 - d. I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)

- e. Enter clerk's judgment
 - (1) for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
 - Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *Predjudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
 - (2) under Code of Civil Procedure section 585(a). (*Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).*)
 - (3) for default previously entered on (date):

2. Judgment to be entered.	Amount	Credits acknowledged	Balance
a. Demand of complaint	\$	\$	\$
b. Statement of damages *	\$	\$	\$
(1) Special	\$	\$	\$
(2) General	\$	\$	\$
c. Interest	\$	\$	\$
d. Costs (see reverse)	\$	\$	\$
e. Attorney fees	\$	\$	\$
f. TOTALS	\$	\$	\$

g. Daily damages were demanded in complaint at the rate of: \$ per day beginning (date):
 (* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

3. (Check if filed in an unlawful detainer case) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).

Date: AUG 05 2015 David R. Donadio
 (TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

- FOR COURT USE ONLY
- (1) Default entered as requested on (date):
 - (2) Default NOT entered as requested (state reason):

Clerk, by _____, Deputy

PLAINTIFF/PETITIONER: Ysidro Limon, Sr.	CASE NUMBER: CGC-15-276378
DEFENDANT/RESPONDENT: AMCORD, INC., et al.	

4. Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.). A legal document assistant or unlawful detainer assistant did did not for compensation give advice or assistance with this form.
(If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state):

- a. Assistant's name:
- b. Street address, city, and zip code:
- c. Telephone no.:
- d. County of registration:
- e. Registration no.:
- f. Expires on (date):

5. Declaration under Code of Civil Procedure Section 585.5 (required for entry of default under Code Civ. Proc., § 585(a)). This action

- a. is is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
- b. is is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
- c. is is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

6. Declaration of mailing (Code Civ. Proc., § 587). A copy of this Request for Entry of Default was

- a. not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names):
- b. mailed first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:

(1) Mailed on (date):

AUG 05 2015

(2) To (specify names and addresses shown on the envelopes):

Ernest J. Castanon -- Authorized Agent for Service
8817 Coolhurst Dr
Pico Rivera, CA 90660-3255

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.

Date:

AUG 05 2015 Teddy Vath

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

7. Memorandum of costs (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- a. Clerk's filing fees \$
- b. Process server's fees \$
- c. Other (specify): \$
- d. \$
- e. TOTAL \$

f. Costs and disbursements are waived.

g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

8. Declaration of nonmilitary status (required for a judgment). No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): DAVID R. DONADIO, ESQ. Bar # 154436 BRAYTON & PURCELL ATTORNEYS AT LAW 222 RUSH LANDING ROAD PO BOX 6169 (ZIP: 94948-6169) NOVATO, CA 94945 TELEPHONE NO.: 415/898-1555. FAX NO. (optional): 415/898-1247</p> <p>E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): PLAINTIFF/YSIDRO LIMON SR.</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 MCALLISTER STREET, ROOM 103</p> <p>MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO, CA 94102-4514 BRANCH NAME: UNLIMITED CIVIL JURISDICTION</p>		<p>FOR COURT USE ONLY</p> <p>ELECTRONICALLY FILED Superior Court of California, County of San Francisco MAR 03 2015 Clerk of the Court BY: ROMY RISK Deputy Clerk</p>
<p>PLAINTIFF/PETITIONER: YSIDRO LIMON, SR.</p> <p>DEFENDANT/RESPONDENT: AMICORD, INC., et al.</p>		<p>CASE NUMBER: CGC15276378</p>
<p align="center">PROOF OF SERVICE OF SUMMONS</p>		<p>Ref. No. or File No.: GROUP # 1247</p>

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. summons
 - b. complaint
 - c. Alternative Dispute Resolution (ADR) package
 - d. Civil Case Cover Sheet (*served in complex cases only*)
 - e. cross-complaint
 - f. other (*specify documents*): **STATEMENT OF DAMAGES, NOTICE OF STATUS CONFERENCE, PRELIMINARY FACT SHEET**
3. a. Party served (*specify name of party as shown on the documents served*):
K & R AUTOMOTIVE
 - b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (*specify name and relationship to the party named in item 3a*):
ERNEST J. CASTANON, AUTHORIZED AGENT FOR SERVICE OF PROCESS
4. Address where the party was served: **8817 COOLHURST DR., PICO RIVERA, CA 90660-3255**
5. I served the party (*check proper box*).
 - a. by personal service. I personally delivered the documents listed in Item 2 to the party or person authorized to receive service of process for the party (1) on (date): **02/06/15** at (time): **06:45 PM**
 - b. by substituted service. On (date): **02/06/15** at (time): **06:45 PM** I left the documents listed in Item 2 with or in the presence of (name, and title or relationship to person indicated in item 3b):
 - (1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): **02/06/15** from (city): **PICO RIVERA, CA** or a declaration of mailing is attached.
 - (5) I attached a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: YSIDRO LIMON, SR.	CASE NUMBER: CGC15276378
DEFENDANT/RESPONDENT: AMCORD, INC., et al	

- c. by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
 with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgement of Receipt.) (Code Civ. Proc., § 415.30.)
 to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. by other means (specify means of service and authorizing code section):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
b. as the person sued under the fictitious name of (specify):
c. as occupant.
d. On behalf of (specify): K & R AUTOMOTIVE
under the following Code of Civil Procedure section.

- | | |
|-------------------------------------------------------------------|-----------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.45 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: J. RIVERA
b. Address: 1515 W. 190TH STREET, STE. 410, GARDENA, CA 90248
c. Telephone number: 310/769-5557
d. The fee for service was: \$
e. I am:

- (1) not a registered California process server.
(2) exempt from registration under Business and Professions Code section 22350(b).
(3) registered California process server:
(i) owner employee independent contractor.
(ii) Registration No.: 4690
(iii) County: LOS ANGELES

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. I am the California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 02/10/15

J. RIVERA

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)



- DO NOT FILE WITH THE COURT -

- UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): DAVID R. DONADIO, ESQ. (Bar # 154436) BRAYTON+PURCELL LLP 222 Rush Landing Road Novato, California 94948-6169 ATTORNEY FOR Plaintiff(s)		TELEPHONE NO. (415) 898-1555 FAX NO. (415) 898-1247	ELECTRONICALLY FILED <i>Superior Court of California, County of San Francisco</i> 08/06/2015 Clerk of the Court BY: TJ MOROHOSHI Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco 94102 BRANCH NAME:		PLAINTIFF: YSIDRO LIMON, SR. DEFENDANT: AMCORD, INC., et al.	
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)		CASE NUMBER CGC-15-276378	

To (name of one defendant only): **K & R AUTOMOTIVE**Plaintiff (name of one plaintiff only): **YSIDRO LIMON, SR.**
seeks damages in the above-entitled action, as follows:**1. General damages:**

- | | |
|-----------------------------------------------------------------------------------------------------------|----------------------|
| a. <input checked="" type="checkbox"/> Pain, suffering, and inconvenience | \$ <u>250,000.00</u> |
| b. <input checked="" type="checkbox"/> Emotional distress | \$ <u>500,000.00</u> |
| c. <input type="checkbox"/> Loss of consortium | \$ _____ |
| d. <input type="checkbox"/> Loss of society and companionship(<i>wrongful death actions only</i>) | \$ _____ |
| e. <input type="checkbox"/> Other (specify) | \$ _____ |
| f. <input type="checkbox"/> Other (specify) | \$ _____ |
| g. <input type="checkbox"/> Continued on Attachment 1.g. | |

2. Special damages:

- | | |
|-------------------------------------------------------------------------------------------------------------------------|----------------------|
| a. <input checked="" type="checkbox"/> Medical expenses (<i>to date</i>) | \$ <u>100,000.00</u> |
| b. <input checked="" type="checkbox"/> Future medical expenses (<i>present value</i>) | \$ <u>350,000.00</u> |
| c. <input checked="" type="checkbox"/> Loss of earnings (<i>to date</i>) | \$ <u>100,000.00</u> |
| d. <input checked="" type="checkbox"/> Loss of future earning capacity (<i>present value</i>) | \$ <u>300,000.00</u> |
| e. <input type="checkbox"/> Property damage | \$ _____ |
| f. <input type="checkbox"/> Funeral expenses (<i>wrongful death actions only</i>) | \$ _____ |
| g. <input type="checkbox"/> Future contributions (<i>present value</i>) (<i>wrongful death actions only</i>) | \$ _____ |
| h. <input type="checkbox"/> Value of personal service, advice, or training (<i>wrongful death actions only</i>) | \$ _____ |
| i. <input checked="" type="checkbox"/> Other (specify) LOSS OF HOUSEHOLD SERVICES | \$ <u>100,000.00</u> |
| j. <input type="checkbox"/> Other (specify) | \$ _____ |
| k. <input type="checkbox"/> Continued on Attachment 2.k. | |

3. **Punitive damages:** Plaintiff reserves the right to seek punitive damages in the amount of (specify). \$ _____

when pursuing a judgment in the suit filed against you.

Date: **January 8, 2015****David R. Donadio**

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

(Proof of service on reverse)

EXHIBIT C

1 GILBERT L. PURCELL, ESQ., S.B. #113603
2 JAMES P. NEVIN, ESQ., S.B. #220816
3 BRAYTON♦PURCELL LLP
4 Attorneys at Law
5 222 Rush Landing Road
P.O. Box 6169
Novato, California 94948-6169
(415) 898-1555

6 | Attorneys for Plaintiffs

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

11 IN RE: COMPLEX ASBESTOS
LITIGATION

ASBESTOS
No. 828684

**DECLARATION OF FRANK
GANZHORN, M.D.**

I, Frank Ganzhorn, M.D., declare as follows:

16 1. The information stated herein is true to my own personal knowledge, and if called as
17 a witness, I could and would testify competently thereto.

18 2. I am a physician licensed to practice medicine in the State of California. I am Board
19 Certified in Pulmonary Medicine. I am Board Certified in Critical Care Medicine. I am Board
20 Certified in Internal Medicine. I am the former director of the Intensive Care Unit and the
21 Internal Medicine Service at Natividad Medical Center, Salinas, California. I am currently a
22 pulmonologist at the Salinas Valley Medical Clinic. I also have a special interest and over 29
23 years of experience in the area of asbestos-related diseases, including asbestosis, lung cancer,
24 other cancers and mesothelioma. I have read and researched in the area of pulmonary health,
25 asbestos-related disease, pathogenesis, pathology, epidemiology, diagnosis, pulmonary function
26 testing, chest x-ray, CT exams, prognosis, medical monitoring and related topics. A copy of my
27 Curriculum Vitae is attached as Exhibit A and truly and correctly sets forth my qualifications
28 and experience.

1 3. The majority of my time is spent taking care of patients in active clinical pulmonary
2 practice. By its nature, my practice involves the care and treatment of many individuals dying
3 of advanced pulmonary disease, including malignancies, such as lung cancer and mesothelioma.
4 In addition to my clinical practice, over the past 29 years, I have also evaluated numerous
5 individuals dying of asbestosis, lung cancer, and/or mesothelioma for medical-legal purposes.

6 4. I have been qualified to testify as an expert witness in federal and California State
7 courts regarding the diagnosis, prognosis, and treatment of asbestos-related diseases. I have
8 testified as an expert witness in trials regarding the pulmonary aspects of asbestos exposure and
9 asbestos diseases.

10 5. During the past 29 years, I have become familiar with the fees charged and paid for
11 physician's services, diagnostic tests, hospital charges, home health care and related services.

12 6. Asbestos causes a variety of injuries to the human respiratory system, including
13 cancer and non-malignant diseases. The non-malignant diseases include asbestosis and
14 asbestos-related pleural disease. Asbestosis is a slowly progressive disease that is potentially
15 disabling and/or fatal. Asbestosis and asbestos-related pleural disease result from cumulative
16 exposure to asbestos, and in individuals who develop these diseases, every occupational or
17 para-occupational exposure to asbestos plays a role in causing the disease. Asbestosis causes
18 impairment of pulmonary function, including pulmonary restriction and diminished diffusing
19 capacity for carbon monoxide (a measure of the ability of the lungs to transfer oxygen from the
20 air into the blood). My opinions are well supported by the American Thoracic Society's
21 undisputed 2004 position paper, Diagnosis and Initial Management of Nonmalignant Disease
22 Related to Asbestos, which is attached as Exhibit B.

23 7. Asbestosis is a scarring of lung tissue caused by the inhalation of asbestos fibers.
24 When humans inhale asbestos fibers, a portion of those fibers reach the alveoli (air sacs). This
25 is the portion of the lungs where gas transfer occurs and where oxygen is transferred into the
26 blood. The presence of asbestos in the lung starts a reaction best described as an inflammatory
27 process. This inflammatory process causes the deposition of scar tissue or fibrosis in the lungs.
28 The scar tissue slowly builds up and in some individuals will progress to where it interferes

1 with lung function, including the reduction of lung volumes and impairment of the lung's ability
2 to transfer oxygen to the blood and remove carbon dioxide. In people who develop asbestosis,
3 the inflammatory process can continue to progress, even after exposure to asbestos ceases.

4 8. This inflammatory process may continue undetected for decades causing no pain or
5 respiratory symptoms. Eventually, in some people, the process will produce symptoms,
6 breathing abnormalities and radiographic changes. The first symptom usually experienced by
7 individuals with asbestos-related lung disease is shortness of breath on exertion. The period
8 between exposure and diagnosis of asbestos-related disease is called "latency" and normally is
9 at least 15 years.

10 9. Asbestos fibers can, after being inhaled into the lungs, make their way to the organ
11 that encases the lungs called the pleura. Once in the pleura, an inflammatory response similar
12 to that seen with asbestosis creates scarring or fibrosis in the pleura resulting in asbestos-related
13 thickening of the pleura and/or asbestos pleural plaques.

14 10. Asbestos causes ~ 80% of cases of malignant mesothelioma, a fatal cancer that
15 arises in the pleura, peritoneum or pericardium. Asbestos and cigarette smoke interact
16 synergistically in causing lung cancer. In someone with both significant cigarette and asbestos
17 exposure, it is the total dose of both together that can cause cancer. Individuals with asbestosis
18 who have a history of cigarette smoking have the highest known risk for developing lung
19 cancer. Individuals with a significant occupational exposure to asbestos or a non-malignant
20 asbestos-related disease are at increased risk for developing a variety of asbestos-related
21 cancers, such as gastrointestinal, renal, oropharyngeal and laryngeal carcinoma.

22 11. Individuals diagnosed with non-malignant asbestos-related disease should be
23 followed closely by a physician for a variety of reasons:

24 (a) It is important to monitor the effects of non-malignant asbestos-related
25 disease on lung function.

26 (b) It is important that people with asbestos-related non-malignant lung disease
27 not smoke.

28 ///

(c) It is important to detect malignancies as early as possible, and regular monitoring helps detect cancer at an early stage.

3 12. For someone diagnosed with asbestosis, medical monitoring for increased risk of
4 cancer and worsening non-malignant disease is required and should at a minimum include the
5 following procedures:

(a) An initial complete pulmonary evaluation with occupational history by a qualified physician (\$1,500.00);

(b) Annual follow-up examinations with a qualified physician (\$300.00);

9 © Annual pulmonary function tests (mechanics, volumes, diffusing capacity) with
10 interpretation (\$1,000.00);

(d) Annual 4-view chest x-rays with interpretation (\$300.00); and

(e) Every 2 years a CT with High Resolution Scans (\$1,800.00).

13 (f) colon cancer screening (\$3,000)

14 The estimated costs of these procedures is based on my knowledge and experience as a
15 pulmonary physician. Someone with only a diagnosis of pleural disease would require similar
16 less frequent monitoring. The frequency of medical monitoring might well increase in
17 individuals with advanced asbestos-related disease, or those with other risk factors, i.e.
18 smoking, heart disease, or similar problems.

19 13. Individuals with asbestosis are likely to experience at least one future
20 hospitalization which is caused, in part, by their asbestos-related lung disease. Individuals with
21 asbestosis are at greater risk for contracting serious lung infections like pneumonia. These
22 patients, because of their impaired lung function, are at increased to develop respiratory failure
23 which would likely result in a prolonged hospitalization and possible death. The cost of such
24 future hospitalization is highly variable but at a minimum would be approximately \$50,000.

25 14. The prognosis of an individual diagnosed with mesothelioma is extremely poor.
26 Mesothelioma is generally considered untreatable, and is often rapidly fatal. The average time
27 from diagnosis to death is fourteen months, but the disease is highly variable in its course with
28 some individuals only living a few months, and rare individuals surviving for several years.

1 Many variables affect an individual's life expectancy including, but not limited to, the extent of
2 the disease at the time of diagnosis, treatment modalities selected by the patient and his
3 physician, the type of tumor (as there are different types of mesotheliomas), the individual's
4 general health and individual variability.

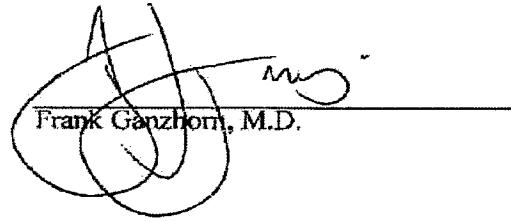
5 15. Consideration must be given to the fact that individuals with mesothelioma can be
6 relatively asymptomatic, then take a turn for the worse, decline rapidly, and die in a matter of
7 weeks. Severe weight loss is common. End-stage disease usually involves a general wasting
8 away of the patient, extreme lethargy, cachexia and debilitation for all ambulatory activities.
9 This can be especially true as the tumor spreads to involve the heart, aorta, or other major organ
10 systems where there is significant risk of the tumor precipitating a terminal event. Death from
11 mesothelioma is particularly painful due to the location of the tumor in the chest and its typical
12 end-stage involvement with nerves.

13 16. All exposures to asbestos by a mesothelioma victim, given a sufficient minimum
14 latency of 15 years prior to diagnosis, and regardless of fiber type, contribute to the asbestos
15 fiber burden and cause the mesothelioma. No exposure to asbestos with the appropriate latency
16 can be excluded from being part of the causal dose of asbestos that caused the mesothelioma.

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed this 29th day of March, 2015, at Salinas, California.

20
21
22
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28



Frank Ganzhorn, M.D.

CURRICULUM VITAE

FRANK MICHAEL GANZHORN, M. D.

EDUCATION

University of California, Berkeley

B.A. Biochemistry June, 1978

Medical College of Wisconsin

Milwaukee, Wisconsin

M.D. May, 1982

University of New Mexico

Albuquerque, New Mexico

Internal Medicine Residency

July, 1982 to July, 1985

University of New Mexico

Pulmonary Medicine Fellowship

July, 1985 to July, 1987

The Chicago Medical School

North Chicago, Illinois

Critical Care Fellowship

July, 1987 to July, 1988

CREDENTIALS

American Board of Internal Medicine

Certified - 1985

Certified - Pulmonary Diseases - 1988

Certified - Critical Care Medicine - 1989 (Recertified 1999, 2009)

EXHIBIT A

PROFESSIONAL SOCIETIES

American College of Chest Physicians (Fellow)

American Thoracic Society (Member)

Society of Critical Care Medicine (Member)

HONORS

University of California, Berkeley
Undergraduate Research Honors Program

Natividad Medical Center
Clinical Faculty Teaching Award, 2002-2003

WORK HISTORY
Internal Medical Group
236 San Jose Street
Salinas, CA 93901

July 18, 1988 to September 30, 1993

Drs. Rinderknecht, Klein & Ganzhorn
Private Practice—Pulmonary Medicine/Critical Care Medicine
1055 Los Palos Drive
Salinas, Ca 93901

October 1, 1993 to August 1, 2002

Medical—Legal Consultation
August, 1997 to present

Drs. Rinderknecht and Klein
Pulmonary Medicine/Critical Care Medicine
Weekend/Holiday/Vacation coverage
August 1, 2002 to May 31, 2010

Alta Bates Summit Medical Center
Intensivist
2450 Ashby Ave.
Berkeley, Ca. 94705
November, 2002 to September, 2004

Natividad Medical Center
1441 Constitution Blvd.
Salinas, Ca. 93906
Medical Director, Intensive Care Unit
September, 2004 to May, 2010
Director, Internal Medicine Service
March, 2005 to May, 2010

Pulmonary Medicine Center of the Central Coast
Pulmonary Medicine/Critical Care Medicine
1055 Los Palos Drive
Salinas, Ca 93901
June 1, 2010 to present

CURRENT HOSPITAL AFFILIATIONS

Salinas Valley Memorial Hospital
450 E. Romie Lane
Salinas, Ca 93901

Natividad Medical Center
1441 Constitution Blvd.
Salinas, CA 93906

ACADEMIC AFFILIATION

Assistant Clinical Professor
Department of Family and Community Medicine
University of California, San Francisco School of Medicine
January, 2004 to present

PERSONAL

Born : May 31, 1956
Baltimore, Maryland
Raised in Novato, California

Marital Status : Married, two Children

Home Address : 20270 Anza Drive
Salinas, Ca 93908

Mailing Address : P.O. Box 4306
Salinas, Ca. 93912

Phone : (831) 757-2058 (PMCCC)
(831) 455-1426 (office)
(831) 320-6660 (cell)
(831) 753-8506 (pager)
(831) 757-4333 (Salinas Valley Memorial)
(831) 455-0396 (home)

American Thoracic Society Documents

Diagnosis and Initial Management of Nonmalignant Diseases Related to Asbestos

THIS OFFICIAL STATEMENT OF THE AMERICAN THORACIC SOCIETY WAS ADOPTED BY THE ATS BOARD OF DIRECTORS ON DECEMBER 12, 2003

CONTENTS

Diagnostic Criteria and Guidelines for Documenting Them
Asbestos as a Hazard
Asbestos in Lung Tissue
Clinical Evaluation and Indicators
Symptoms
Occupational and Environmental History
Physical Examination
Conventional Imaging
Computed Tomography
Bronchoalveolar Lavage
Pulmonary Function Tests
Nonmalignant Disease Outcomes
Asbestosis
Nonmalignant Pleural Abnormalities Associated with Asbestos
Chronic Airway Obstruction
Implications of Diagnosis for Patient Management
Actions Required before Disease Is Apparent
Actions Required after Diagnosis
Conclusions

Asbestos is a general term for a heterogeneous group of hydrated magnesium silicate minerals that have in common a tendency to separate into fibers (1). These fibers, inhaled and displaced by various means to lung tissue, can cause a spectrum of diseases including cancer and disorders related to inflammation and fibrosis. Asbestos has been the largest single cause of occupational cancer in the United States and a significant cause of disease and disability from nonmalignant disease. To this demonstrable burden of asbestos-related disease is added the burden of public concern and fear regarding risk after minimal exposure.

This statement presents guidance for the diagnosis of nonmalignant asbestos-related disease. Nonmalignant asbestos-related disease refers to the following conditions: asbestosis, pleural thickening or asbestos-related pleural fibrosis (plaques or diffuse fibrosis), "benign" (nonmalignant) pleural effusion, and airflow obstruction. This document is intended to assist the clinician in making a diagnosis that will be the basis for individual management of the patient. It therefore provides overarching criteria for the diagnosis, specific guidelines for satisfying these criteria, and descriptions of the clinical implications of the diagnosis, including the basic management plan that should be triggered by the diagnosis. It is understood that disease may be present

at a subclinical level and may not be sufficiently advanced to be apparent on histology, imaging, or functional studies.

One of the most important implications of the diagnosis of nonmalignant asbestos-related disease is that there is a close correlation between the presence of nonmalignant disease and the risk of malignancy, which may arise from exposure levels required to produce nonmalignant disease or mechanisms shared with premalignant processes that lead to cancer. The major malignancies associated with asbestos are cancer of the lung (with a complex relationship to cigarette smoking) and mesothelioma (pleural or peritoneal), with excess risk also reported for other sites. There is a strong statistical association between asbestos-related disease and malignancy, but the majority of patients with nonmalignant asbestos-related disease do not develop cancer. On the other hand, the risk of cancer may be elevated in a person exposed to asbestos without obvious signs of nonmalignant asbestos-related disease. However, a diagnosis of nonmalignant asbestos-related disease does imply a lifelong elevated risk for asbestos-related cancer.

DIAGNOSTIC CRITERIA AND GUIDELINES FOR DOCUMENTING THEM

People with past exposure to asbestos consult physicians for many relevant reasons: to be screened for asbestos-related disease, for evaluation of specific symptoms that may relate to past asbestos exposure (known or unsuspected), for treatment and advice, and for evaluation of impairment. In 1986, the American Thoracic Society convened a group of experts to review the literature and to present an authoritative consensus view of the current state of knowledge with respect to diagnosis of nonmalignant disease related to asbestos (2). In 2001, a new group was convened to review and to update the 1986 criteria. This statement constitutes that committee's report, completed in 2004.

The criteria formulated in this statement are intended for the diagnosis of nonmalignant asbestos-related disease in an individual in a clinical setting for the purpose of managing that person's current condition and future health. These general criteria are slightly modified from those presented in 1986 (Table 1) (2):

- Evidence of structural pathology consistent with asbestos-related disease as documented by imaging or histology
- Evidence of causation by asbestos as documented by the occupational and environmental history, markers of exposure (usually pleural plaques), recovery of asbestos bodies, or other means
- Exclusion of alternative plausible causes for the findings

The rest of this statement is largely devoted to presenting clinical guidelines required to document that each of these criteria is met. Demonstration of functional impairment is not required for the diagnosis of a nonmalignant asbestos-related disease, but where present should be documented as part of the complete evaluation. Evaluation of impairment has been exten-

Members of the Ad Hoc Statement Committee have disclosed any direct commercial associations (financial relationships or legal obligations) related to the preparation of this statement. This information is kept on file at the ATS headquarters.

TABLE 1. CRITERIA FOR DIAGNOSIS OF NONMALIGNANT LUNG DISEASE RELATED TO ASBESTOS

1986 Guidelines	2004 Guidelines	Comparison and Notes
Chest film (irregular opacities)	Evidence of structural change, as demonstrated by one or more of the following: <ul style="list-style-type: none">• Imaging methods	Demonstrates the existence of a structural lesion consistent with the effects of asbestos. The criteria outlined in the 1986 guidelines were most explicit for asbestosis.
Pathology (College of American Pathologists)	• Histology (College of American Pathologists)	Chest film, HRCT, and possibly future methods based on imaging. The 1986 guidelines specified ILO classification 1/1. Criteria for identifying asbestosis on microscopic examination of tissue are unchanged.
Consistent time interval	Evidence of plausible causation, as demonstrated by one or more of the following: <ul style="list-style-type: none">• Occupational and environmental history of exposure (with plausible latency)• Markers of exposure (e.g., pleural plaques)• Recovery of asbestos bodies	Evidence of plausible causation implies that the temporal relationship, including latency, is plausible.
Occupational and environmental history		
Asbestos bodies or fibers in lung tissue		
Rule out other causes of interstitial fibrosis or obstructive disease	Exclusion of alternative diagnoses	The 2004 guidelines are not limited to lung tissue; consider the role of BAL to be established, and deemphasize fibers because they are difficult to detect and a systematic analysis for asbestos fibers is not generally available.
"Evidence of abnormal test"	Evidence of functional impairment, as demonstrated by one or more of the following: <ul style="list-style-type: none">• Signs and symptoms (including crackles)	The 1986 guidelines primarily addressed asbestosis but mentioned smoking as a cause of obstructive disease. Implicit in the article, however, is that nonmalignant diseases presenting similarly to asbestos-related disease should also be ruled out.
Crackles, bilateral, not cleared by cough		
Restrictive disease	<ul style="list-style-type: none">• Change in ventilatory function (restrictive, obstructive patterns in context or disease history)• Impaired gas exchange (e.g., reduced diffusing capacity)• Inflammation (e.g., by bronchoalveolar lavage)	Functional assessment is not required for diagnosis but is part of a complete evaluation. It contributes to diagnosis in defining the activity of disease and the resulting impairment. Signs and symptoms are not specific for diagnosis but are valuable in assessing impairment.
Reduced diffusing capacity	<ul style="list-style-type: none">• Exercise testing	The 1986 criteria admitted the possibility of obstructive disease; the 2004 criteria address this specifically.

Definition of abbreviations: BAL = bronchoalveolar lavage; HRCT = high-resolution computed tomography; ILO = International Labour Organization.
From References 64 and 65.

sively reviewed elsewhere and is not repeated here (3). Functional impairment may be demonstrated by evidence of symptoms or signs, ventilatory dysfunction, impaired gas exchange, and inflammation. Pulmonary function testing should be conducted in conformity with standards already published by the American Thoracic Society (4, 5), including multiple trials to confirm reproducibility and documentation of all trials attempted.

These guidelines are designed for clinical application, not for research, epidemiologic surveillance, screening, litigation, or adjudication. They balance the need to be as accurate as possible with protection of the patient's safety and the yield, cost, and accessibility of the diagnostic procedures available. These guidelines, if they err, err on the side of specificity rather than sensitivity. This is because nonmalignant asbestos-related disorders are difficult to detect in their earliest stages and because there is no early intervention that has been proven to alter the subsequent evolution of the disease. On the other hand, the documentation of causation by asbestos carries important implications for the patient and can be established with reasonable certainty, once the disease is identified.

Asbestos as a Hazard

The generic term "asbestos" is used to describe a group of minerals that, when crushed, break into fibers. As defined by

the National Research Council (1), the term "asbestos" is a "commercial-industrial term rather than a mineralogical term. It refers to well-developed and hair-like long-fibered varieties of certain minerals that satisfy particular industrial needs." They are chemically heterogeneous hydrated silicates and each has chemical analogs with different structures that do not form fibers. Fibers have parallel sides with length three or more times greater than width. Asbestos fibers have great tensile strength, heat resistance, and acid resistance; varieties are also flexible. The six minerals that are traditionally defined as asbestos include chrysotile asbestos (the asbestiform variety of serpentine); the amphiboles, which include crocidolite (the asbestiform variety of riebeckite) and amosite (the asbestiform variety of cummingtonite-grunerite); and the asbestiform varieties of the amphiboles, which include anthophyllite (anthophyllite asbestos), actinolite (actinolite asbestos), and tremolite (tremolite asbestos) (6). Just as all forms of asbestos, by the definition and classification above, appear to cause malignancy, all may cause the nonmalignant diseases described. Issues of relative potency among the forms of asbestos, and particularly between chrysotile and the amphiboles, are primarily of concern with respect to the risk of malignancy and are not discussed in this document.

Commercial-grade asbestos is made up of fiber bundles. These bundles, in turn, are composed of extremely long and thin fibers, often with splayed ends, that can easily be separated from

one another. Commercial asbestos has high tensile strength, flexibility, resistance to chemical and thermal degradation, and high electrical resistance, and can often be woven. On the basis of these characteristics, asbestos was broadly used in the past in insulation, brake linings, flooring, cement, paint, textiles, and many other products; however, commercial use has declined substantially in more recent years.

Asbestos and asbestosiform minerals may occur as a natural accessory mineral in other industrial mineral deposits or rocks. These asbestosiform amphiboles and some other fibrous minerals may not completely fit the commercial definition of asbestos but may have similar effects, such as the tremolite-like asbestosiform mineral found in association with vermiculite in Libby, Montana (7). Although the general criteria still apply, the specific diagnostic guidelines provided in this statement may or may not apply in such situations, depending on the mineral and exposure circumstances. Documentation of health effects in the scientific literature for these minerals is not as extensive as for chrysotile and the common amphiboles.

World production and use of asbestos climbed steadily since its commercial introduction in the late nineteenth century and fell rapidly after documentation of its hazards in the 1970s and 1980s. In Western industrialized countries, the widespread use of asbestos in industry and in the built environment in the first seven decades of the twentieth century has resulted in an epidemic of asbestos-related illness that now continues into the twenty-first century, despite decline in global production and use. Its use has now been banned in many Western countries. Asbestos is still mined in Russia and China, mainly for local use, and in Canada, where most of the product is exported to Asia and Africa.

Today, with stringent regulation of asbestos use and the disappearance of almost all asbestos-containing products from the market, nonmalignant asbestos-related disease is primarily a concern in four settings in the developed world: (1) the historical legacy of asbestos exposure affecting older workers; (2) the current risk experienced by the workforce engaged in certain occupations managing the remaining hazard, such as building and facility maintenance; (3) asbestos abatement operations, removing insulation and other asbestos-containing products; and (4) renovation and demolition of structures containing asbestos. In the developing world, workers and their families continue to be exposed. In some countries, including industrialized countries formerly belonging to the Eastern bloc and rapidly industrializing countries in Asia, the use of asbestos continues and may even be increasing.

Asbestos is still a hazard for an estimated 1.3 million workers in the construction industry in the United States and for workers involved in maintenance of buildings and equipment (8). Most asbestos in the United States today exists in building and machinery insulation and old products, such as appliances, that may be available for resale. New products that may contain asbestos today in the United States include friction surfaces (brake pads), roofing materials, vinyl tile, and imported cement pipe and sheeting. Significant asbestos content may be present as a contaminant in vermiculite insulation often found in homes (7).

Historically, occupations at greatest risk for nonmalignant asbestos-related disease have tended to be those engaged in the production and end use of products made from asbestos. These have included a wide assortment of items, including friction pads, brake linings, gas masks, cement water pipe, insulation, and textiles. Occupations engaged in the mining and extraction of asbestos have usually shown lower frequencies of nonmalignant asbestos-related disease. Passive exposure, including workers carrying home asbestos on their clothing, was historically associated with elevated cancer risk, particularly mesothelioma, and

risk of nonmalignant asbestos-related disease. Workers in building and equipment maintenance may still encounter asbestos insulation even though asbestos is no longer widely used in commerce. Asbestos abatement activities, including removal and replacement of insulation, provide opportunities for exposure among contemporary workers (8).

Asbestos in Lung Tissue

Asbestos fibers carried to the deep lung induce an alveolitis that results in fibrosis. Inhaled asbestos fibers can also result in pleural inflammation. Asbestos fibers are transported to the pleural surface along lymphatic channels by macrophages and/or by direct penetration. The degree of fibrosis in asbestosis is dose dependent (9–12).

Asbestos fibers are deposited at airway bifurcations and in respiratory bronchioles and alveoli primarily by impaction and interception. Fibers migrate into the interstitium, in part via an uptake process involving Type I alveolar epithelial cells. This causes an alveolar macrophage-dominated alveolitis, as demonstrated in Figure 1 (12, 13). Thereafter, many of the fibers are cleared.

Activated macrophages are stimulated to engulf and remove asbestos fibers. This process is not uniformly successful, however, and many fibers are retained (9, 10). The long fibers cannot be completely engulfed by the macrophage, as demonstrated in Figure 2.

Chrysotile fibers also split longitudinally, creating additional fibrils. These are cleared more efficiently than amphibole asbestos fibers, which may be retained indefinitely (12). The fibers induce apoptosis, a form of controlled cell death, in the macrophage and stimulate inflammation. This effect is reduced once the fiber is coated to create an asbestos body, but the great majority of fibers in the lung remain uncoated. For these reasons, asbestos has a prolonged residence in the lung, penetrates the interstitium of the distal lung, and shows extensive mobility both in the lung and around the body (9).

Asbestos fibers, in particular, stimulate macrophages to produce a variety of mediators. Oxygen radicals contribute to tissue injury. Granulocytes are recruited to sites of disease activity and they in turn release mediators that contribute to tissue fibrosis by stimulating fibroblast proliferation and chemotaxis and ultimately promoting collagen synthesis (11–15).

The inflammatory processes induced by asbestos include alveolitis, inflammation in the surrounding interstitium, and inflammation followed by fibrotic change in the respiratory bronchioles that extends into adjacent alveolar tissue (11, 14, 16). Studies of the lung tissue of asbestos-exposed workers, including nonsmokers, have demonstrated a form of peribronchiolitis involving the walls of membranous and respiratory bronchioles, that shows characteristics of a more intense fibrotic response than the small airway lesions caused by nonspecific mineral dusts that the lesions otherwise resemble (17, 18).

Asbestos fibers and their derivatives, asbestos bodies, can be identified and quantified in lung tissue and bronchoalveolar lavage (BAL) specimens, as demonstrated in Figure 2 (19). Transbronchial lung biopsy is less reliable than BAL or open lung biopsy in recovering sufficient tissue to demonstrate elevated asbestos body or fiber counts when they do occur (20).

Asbestos fibers, unlike asbestos bodies, are rarely seen by light microscopy and must be analyzed by scanning/transmission electron microscopy (19, 21, 22). There is considerable variation among laboratories in procedures to quantify asbestos fibers in tissue (18, 23, 24), which has led to efforts to standardize procedures (19). Asbestos mineralogical types can be identified by energy-dispersive X-ray analysis, in which detection of magnesium and silicon is characteristic of most forms of asbestos and

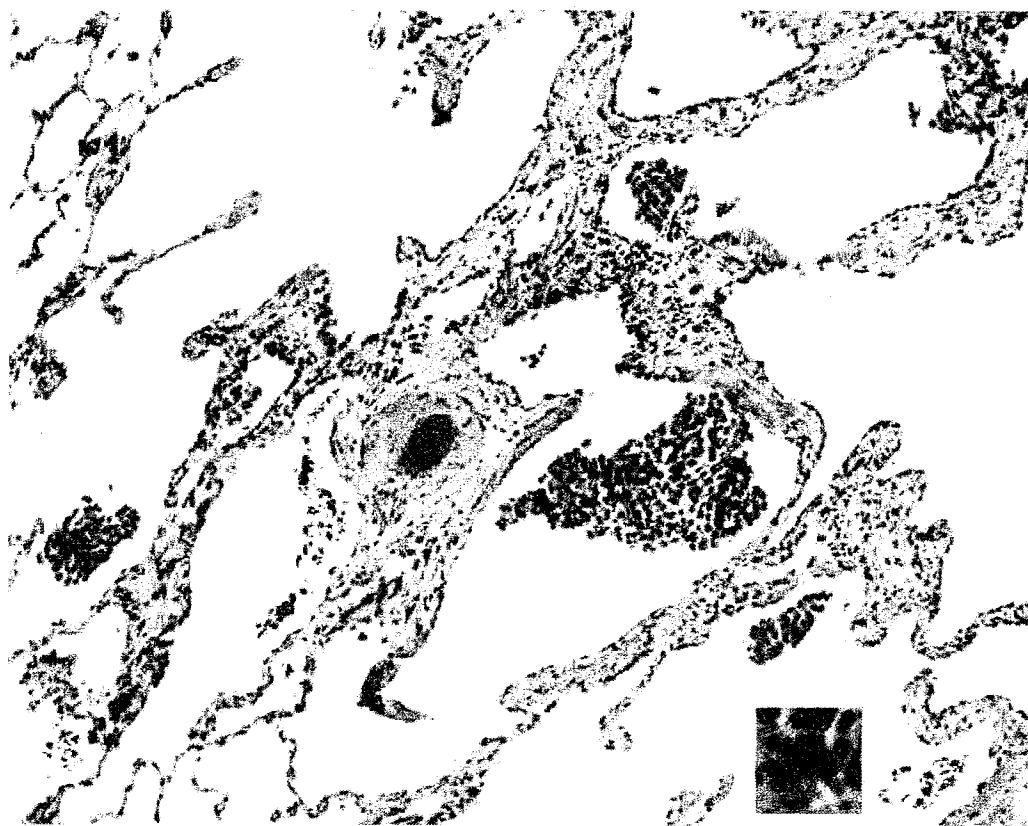


Figure 1. Low-power photomicrograph of hematoxylin and eosin (H&E)-stained sections from a patient with asbestosis, showing patchy asbestosis and a moderate number of macrophages within the alveoli. *Inset:* Close-up of macrophages in an iron-stained section showing an asbestos body.

the presence of a large iron peak signifies an amphibole (with the exception of tremolite) (25). Fiber analysis can be helpful in assessment of exposure and provides information about intensity, duration, and latency (e.g., uncoated fibers may reflect recent heavy exposure). However, because some fibers dissolve over

time, the absence of a high fiber count does not necessarily mean that there has been no exposure, especially when chrysotile is the predominant exposure (22). Mineralogic analysis of asbestos fibers is largely a research technique and is not widely available (26).

Asbestos bodies. Asbestos bodies are asbestos fibers that have

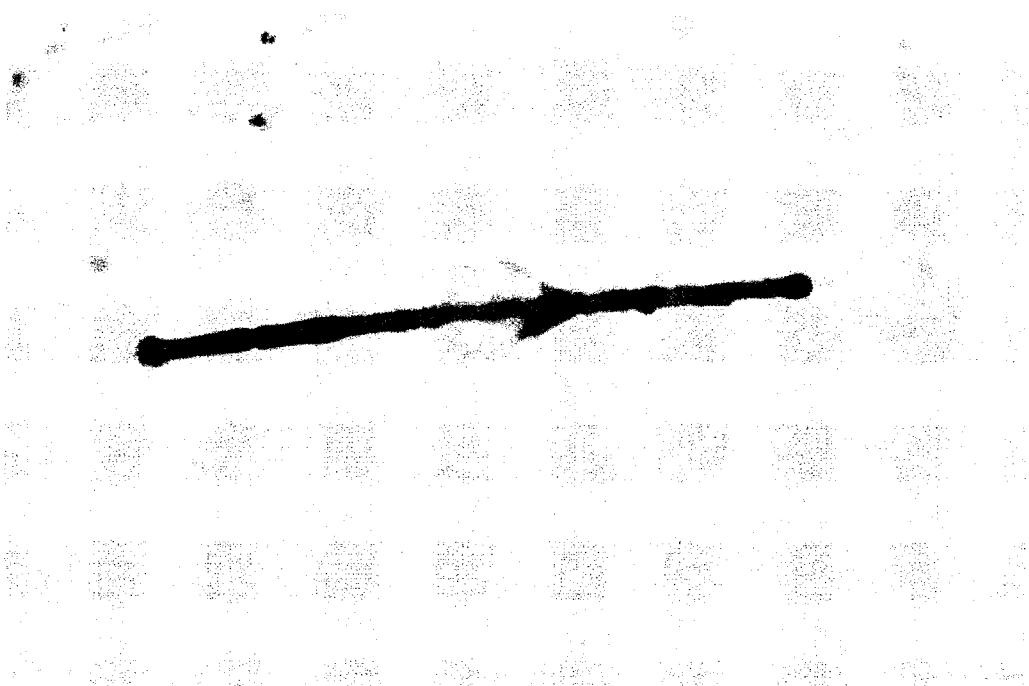


Figure 2. Asbestos body retrieved by bronchoalveolar lavage. Note its clear central core.

been coated with an iron-rich, proteinaceous concretion (Figures 1 and 2). Amphibole asbestos forms the majority of asbestos bodies and is more persistent in lung tissue than chrysotile (25). Asbestos bodies are larger than asbestos fibers and can be identified and quantified by light microscopy. An iron stain is helpful to identify fibrous bodies coated by iron (hence the general name "ferruginous bodies"). Ferruginous bodies generally form on fibers at least 10 μm in length, and more than 90% of all coated fibers have asbestos cores. Demonstration of an elevated body burden of asbestos confirms past exposure (19). Levels of at least one or two asbestos bodies per field of a tissue section on a slide under light microscopy are consistent with occupational exposure (19, 22, 24).

Transbronchial biopsy. Transbronchial lung biopsies are usually too small to analyze for asbestos bodies. Bronchoalveolar lavage recovers more material and therefore provides a better indicator of tissue burden. Some experienced clinicians have found that identification of six or more bodies in bleach-digested samples from at least two biopsies is characteristic of patients with occupational exposure (26). However, the absence of observable asbestos bodies is not reliable in excluding significant exposure in transbronchial biopsy tissue (20).

These indicators of fiber burden are sufficient but not necessary to identify occupational exposure and to diagnose asbestos-related disease. Beyond clinical research, the method has applications in litigation and exposure assessment for epidemiology.

Bronchoalveolar lavage. Asbestos bodies and fibers can be identified and quantified in BAL specimens, as in Figure 2 (22). There is considerable variation among laboratories in these tests (18, 19, 22, 23). The count of asbestos bodies in BAL fluid appears to correlate with the presence or degree of fibrosis in some studies but not others (24, 27, 28).

BAL in patients with asbestosis has demonstrated an alveolar macrophage alveolitis associated with a modest increase in neutrophils (12, 13). This neutrophilia correlates with the finding of crackles (rales) on physical examination and disturbances in oxygenation (12, 27) and is apt to be more pronounced in patients with advanced disease (13). Clinically apparent asbestosis occurs only after a significant latent period. However, studies using BAL, computed tomography (CT) scanning, and gallium-67 scanning have demonstrated that inflammatory events occur well before the onset of clinical disease. Thus, it is likely that the initial exposure induces inflammation and injury that persist through the latent or subclinical phase and later develop into the clinical disease, which is typically diagnosed by chest imaging (13).

CLINICAL EVALUATION AND INDICATORS

The clinical evaluation of nonmalignant asbestos-related disease should consider subjective symptoms as well as objective findings on physical examination, pulmonary function tests, and chest radiographic studies. In the large majority of patients, the diagnosis of nonmalignant asbestos-related lung disease is based on the clinical findings discussed below, in the context of an appropriate history of exposure to asbestos and a documented latency period sufficient to place an individual at risk.

Symptoms

The insidious onset of dyspnea is the most common respiratory symptom associated with asbestosis, typically beginning with dyspnea on exertion. A nonproductive cough is commonly present. The presence of wheeze or dyspnea (27), as reported on the ATS-DLD-78A respiratory questionnaire (5), is strongly associated with diminished ventilatory capacity in cross-sectional studies of asbestos-exposed workers, with an 11 to 17% reduction in ventilatory capacity (27, 29). A 2-8% reduction in ventilatory

capacity has been observed for cough, phlegm, and symptoms of chronic bronchitis among asbestos-exposed workers (29). Development or progression of respiratory symptoms has been associated with accelerated loss of ventilatory capacity in a longitudinal investigation of asbestos-exposed workers, with an excess 28-mL/year decline in FEV₁ associated with development of dyspnea, and 67-mL/year excess decline in FVC associated with newly developed wheezing, relative to asymptomatic individuals (30).

In a study of 64 patients, diffuse pleural thickening or fibrothorax was associated with dyspnea on exertion, usually mild, in 95%, chest pain in more than half, and restrictive defect in one-third. The chest pain was intermittent in most but constant in 9% (31). Rapidly progressive or severe chest pain should raise clinical suspicion of either malignancy or a nonmalignant pleuritis.

Subjective symptoms are not easily interpreted in the absence of objective findings but provide important ancillary information. The persistence or new onset of respiratory symptoms is correlated with accelerated loss of lung function in asbestos-exposed workers and therefore may predict future risk (30).

Occupational and Environmental History

It is essential to take a comprehensive occupational and environmental history when asbestos-related disease is suspected (32). The occupational history should emphasize occupational and environmental opportunities for exposure that occurred about 15 years and more before presentation.

The diagnosis of asbestosis is ideally based on an accurate exposure history, obtained whenever possible directly from the patient, that defines the duration, intensity, time of onset, and setting of exposure experienced by the patient. Patients may forget short periods of employment, during which intense exposure is possible, or employment early in their lives. In such cases the characteristic radiographic signs of asbestos exposure may be enough to document exposure.

The occupational title is not enough, as the names of many occupations and trades are uninformative, such as "millwright" or "fireman" (a misleading title that sometimes refers to furnace workers and stokers) or "mixer." Representative occupational exposures include, but are not limited to, manufacture of asbestos products, asbestos mining and milling, construction trades (including insulators, sheet metal workers, electricians, plumbers, pipefitters, and carpenters), power plant workers, boilermakers, and shipyard workers.

Asbestosis is commonly associated with prolonged exposure, usually over 10 to 20 years. However, short, intense exposures to asbestos, lasting from several months to 1 year or more, can be sufficient to cause asbestosis. For example, shipyard workers who applied or removed insulation in confined spaces have developed asbestosis after brief periods of heavy exposure. Insulation workers have had similarly intense exposures during their apprenticeship when they unloaded asbestos-containing sacks into troughs for mixing asbestos cement. Such occupational exposures are now rare but were common in the United States from the years after World War II until the 1970s. Adequate industrial hygiene controls were absent or not widely applied. Protective regulations were inadequate and only partially enforced during much of that period.

Workers whose own jobs may not require handling asbestos may still be "bystanders" who worked in close proximity to other users, especially in the construction trades, where workers have experienced exposure from insulation being installed around them. Among sheet metal workers, for example, the prevalence of asbestos-related changes on chest film was 31% (19% pleural only, 7% parenchymal only, and 6% both). Among those who had been in the trade for 40 or more years, 41.5% had radio-

graphic findings (33). These findings established that sheet metal workers, although not working directly with asbestos, had substantial exposure in the work environment.

Measures taken to protect workers, or lapses in these measures, may be important in documenting exposure. Although exposure levels are generally low in developed countries today, lapses occur and were more frequent in the past. Some patients who have immigrated may have worked in countries where occupational health regulations have been poorly enforced or where environmental exposure has occurred.

Environmental sources of exposure, for example, tailings of asbestos mines or prolonged exposure in buildings with exposed sources of asbestos contamination, may be important in some cases. Passive exposure, for example, of children in the home when asbestos is brought into the house on the clothes of a worker, may cause disease (34). Undisturbed and nonfibrous asbestos insulation in buildings, including schools, does not present a hazard.

The prevalence of asbestosis among asbestos workers increases with the length of employment, as illustrated in an early report in which investigators analyzed chest films of 1,117 New York and New Jersey asbestos insulation workers. They found asbestosis in 10% of workers who had been employed for 10 to 19 years, 73% among those employed for 20 to 29 years, and in 92% of those employed for 40 or more years (35). A similar exposure-response relationship was found among asbestos cement workers (36).

Differences in solubility among the various types of asbestos may affect fiber retention, body burden, and the risk of nonmalignant disease. The clinician is rarely in a position to evaluate this aspect of exposure and there is no validated means to adjust the occupational history to take this factor into account. Solubility is primarily of concern with respect to projecting future risk, particularly of malignant disease, given a history of exposure. It is irrelevant to diagnosis when disease is already present and other indicators of exposure are demonstrable.

Physical Examination

Physical findings in asbestosis include basilar rales, often characterized by end-inspiratory crackles (rales) (36, 37); in some cases of advanced asbestosis, finger clubbing may be present. Physical findings of crackles, clubbing, or cyanosis are associated with increased risk for asbestos-related mortality (36). Although these physical signs are useful when present, their overall clinical utility is limited by low sensitivity. For example, in one study as many as 80% of individuals with radiographic asbestosis demonstrated crackles, a frequency that appears to be unusually high in the experience of other clinicians (27).

Conventional Imaging

The chest radiograph remains an extremely useful tool for the radiographic diagnosis of asbestosis and asbestos-related pleural disease, and is widely available internationally. The plain film has long been the basis for assessing asbestos-related disease of the lung and pleura. A standardized system for taking and classifying films for presence and profusion of opacities consistent with pneumoconiosis and for pleural changes was developed in the 1950s and is now known as the *International Classification of Radiographs of Pneumoconiosis* (or "ILO classification" after its sponsor, the International Labour Organization). The ILO classification has been revised (38). This system, which is the basis of the "B-reader" qualification for designating persons as competent in classifying pneumoconiosis films, was developed for grading the radiographic severity of pneumoconiosis in epidemiologic studies but has been applied to clinical settings to maintain consistency in classifying chest films. The ILO classification

requires conventional film-based posteroanterior (PA) chest films taken at prescribed specifications and classified with due regard for quality. Conventions for classifying digitized films and other advanced imaging systems have lagged behind the development of technology.

The initial radiographic presentation of asbestosis is typically that of bilateral small primarily irregular parenchymal opacities in the lower lobes bilaterally. Over time, the distribution and density or "profusion" of opacities may spread through the middle and upper lung zones. Although irregular opacities are most common from asbestos exposure, mixed irregular and rounded opacities are often present. The ILO classification profusion score correlates strongly with mortality risk (36), reduced diffusing capacity, and diminished ventilatory capacity (37, 39). A critical distinction is made between films that are suggestive but not presumptively diagnostic (0/1) and those that are presumptively diagnostic but not unequivocal (1/0). This dividing point is generally taken to separate films that are considered to be "positive" for asbestosis from those that are considered to be "negative." However, profusion itself is continuous (36, 38).

Plain chest radiographs are limited with respect to sensitivity and specificity in cases of mild or early asbestosis. Among individuals with asbestosis confirmed by histopathologic findings, 15–20% had no radiographic evidence of parenchymal fibrosis in one study (40), similar to the proportion of other interstitial lung diseases that present with normal chest films (41).

Pleural plaques are frequently documented on plain chest radiographs, but CT is more sensitive for their detection. Only 50 to 80% of cases of documented pleural thickening demonstrated by autopsy, conventional CT, or high-resolution CT (HRCT) are detected by chest radiograph (42, 43). Plain chest radiographs are also limited by specificity in cases of mild pleural disease, which may be difficult to distinguish from extrapleural fat pads (39, 44). Oblique views can enhance both sensitivity and specificity of plain chest radiographs in clinical settings where HRCT is unavailable, but may also fail to distinguish plaques from fat pads (45). CT and HRCT are discussed in the next section.

Computed Tomography

A chest film clearly showing the characteristic signs of asbestosis in the presence of a compatible history of exposure is adequate for the diagnosis of the disease; further imaging procedures are not required. Conventional CT is superior to chest films in identifying parenchymal lesions, rounded atelectasis, and pleural plaques (46). However, conventional CT has been displaced by HRCT for the evaluation of asbestos-exposed subjects because the latter is more sensitive for detecting parenchymal fibrosis.

In subjects with low profusion categories of asbestosis, CT signs tend to be clustered as follows (47):

- Honeycombing and thickening of septa and interlobular fissures, suggesting interstitial fibrosis
- Diffuse pleural thickening, parenchymal bands, and rounded atelectasis, suggesting diffuse fibrosis involving the visceral pleura
- Pleural plaques

HRCT has an important role when experienced readers disagree about the presence or absence of abnormalities on a high-quality chest film, when chest radiographic findings are equivocal, when diminished pulmonary function is identified in association with otherwise normal plain chest radiographic findings, and when extensive overlying pleural abnormalities do not allow a clear interpretation of parenchymal markings. Because HRCT is more sensitive than other techniques for detecting parenchymal changes, it may reveal abnormalities with uncertain prognostic

significance. HRCT is more specific than plain chest radiographs, excluding conditions such as emphysema, vessel prominence, overlying pleural disease, and bronchiectasis, which may confound radiographic interpretation.

HRCT is much more sensitive in the detection of asbestosis than plain chest radiographs (46, 48), although even a normal HRCT cannot completely exclude asbestosis (49). Among asbestos-exposed individuals with unremarkable chest radiographic findings (ILO score 0/0 or 0/1), 34% were identified by HRCT as having findings suggestive of asbestosis. HRCT findings also correlated with decrements in pulmonary function tests in these cases, with a significantly diminished vital capacity and diffusing capacity (50).

HRCT can detect early pleural thickening (i.e., 1–2 mm in thickness) much more sensitively than plain chest radiographs. Pleural thickening is frequently discontinuous and interspersed with normal regions. It is usually bilateral but may be unilateral in a third of cases (48). HRCT also offers an advantage over plain chest radiographs in specificity, being able to distinguish pleural disease from extrapleural fat (51).

HRCT should be obtained at 2-cm intervals, to allow a more accurate assessment of pleural abnormalities, as well as other abnormal findings such as pulmonary masses (52). Prone views should always be obtained, as it is essential to distinguish between dependent atelectasis and parenchymal fibrosis in the posterior lung fields. HRCT findings in asbestosis are typically bilateral, and include evidence of fibrosis (e.g., intralobular interstitial thickening and interlobular septal thickening), subpleural "dotlike" opacities, subpleural lines, parenchymal bands, occasionally ground-glass opacity, and honeycombing in advanced disease (47, 52, 53). A proposal has been put forward for a classification system analogous to that of the ILO system for plain chest radiographs (54), but none has been widely adopted.

The extent of plaque formation does not correlate with cumulative asbestos exposure and thus cannot be used to estimate exposure (55).

Bronchoalveolar Lavage

Sputum analyses for asbestos bodies miss almost half of occupationally exposed individuals in whom asbestos bodies are found on BAL (56). Thus, on the rare occasions in which the diagnosis of asbestosis hinges on demonstration of asbestos bodies and fibers to document exposure, BAL should be performed if sputum analysis is negative (19). Subjects with long-term exposure have higher concentrations of fibers than those with more recent exposure, probably because of higher workplace exposures in the past (19).

Asbestos bodies (ABs) in BAL fluid correlate with occupational exposure and asbestosis (10, 19, 56, 57) and with asbestos bodies in the lung (57). Patients with asbestosis consistently have 2 to 5 orders of magnitude more ABs per milliliter than do pleural plaque subjects. Recovery of more than 1 AB/ml indicates a high probability of substantial occupational exposure to asbestos (19, 58). In one large series, patients with asbestosis had a log mean of 120 AB/ml, those with pleural plaques had 5 AB/ml, those exposed to asbestos who had a normal chest X-ray had 4 AB/ml, and those with malignant mesothelioma or lung cancer had 8 AB/ml. Of those with more than 100 AB/ml, 60% had asbestosis; others had pleural plaques, mesothelioma, or lung cancer, and only 6% were exposed but had no evidence of pathology (59).

BAL cells can also be digested with bleach and the residue analyzed by electron microscopy, with fibers expressed per 10⁶ alveolar macrophages (58). In U.S. asbestos insulation workers, electron microscopy identified 1 chrysotile fiber in every 35 alveolar macrophages and 1 amosite fiber per 215 macrophages, with

no crocidolite detected. BAL performed on asbestos-exposed subjects has recovered 28 × 10³ fibers compared with 1 × 10⁴ in unexposed subjects (60). For every 100 fibers, there is typically 1 asbestos body (61). Clinically, the appearance of fibers or beaded fibers on a single centrifuged BAL sample mounted on a Diff-Quik slide represents an indicator of parenchymal asbestosis (28).

Amphibole fiber recovery on BAL correlates well with amphibole fiber burden in the lung, but the relationship does not hold for chrysotile because of translocation, clearance, and dissolution (57, 61–63).

Pulmonary Function Tests

Evaluation of subjects with suspected asbestos-related disease should include spirometry (with a hard copy of the flow-volume loop for the permanent medical record), all lung volumes, and the carbon monoxide diffusing capacity. Care should be taken to discriminate among effects due to asbestosis, chronic obstructive pulmonary disease, and restrictive changes due to obesity.

As with other interstitial lung diseases, the classic finding in asbestosis is a restrictive impairment. Mixed restrictive and obstructive impairment is frequently seen; isolated obstructive impairment is unusual. Restrictive impairment may also be observed with pleural disease (see section on pleural abnormalities below).

In addition to diminished lung volumes, the carbon monoxide diffusing capacity is commonly reduced due to diminished alveolar–capillary gas diffusion, as well as ventilation–perfusion mismatching. Although a low diffusing capacity for carbon monoxide is often reported as the most sensitive indicator of early asbestosis, it is also a relatively nonspecific finding.

Exercise testing is generally not required for diagnostic purposes, but may be useful in assessing aerobic work capacity in selected cases, or when the degree of dyspnea correlates poorly with objective pulmonary function measurements.

NONMALIGNANT DISEASE OUTCOMES

Asbestosis

Asbestosis is the interstitial pneumonitis and fibrosis caused by inhalation of asbestos fibers. After asbestos exposure, asbestosis becomes evident only after an appreciable latent period. The duration and intensity of exposure influence the prevalence of radiographically evident parenchymal pulmonary fibrosis. In work sites around the world that meet recommended control levels, high exposure to asbestos is now uncommon and clinical asbestosis is becoming a less severe disease that manifests itself after a longer latent interval.

Asbestosis specifically refers to interstitial fibrosis caused by the deposition of asbestos fibers in the lung (Figure 3). It does not refer to visceral pleural fibrosis, the subpleural extensions of fibrosis into the interlobular septae or lesions of the membranous bronchioles.

The College of American Pathologists has developed histologic criteria for asbestosis and a grading system to describe the severity and extent. The mildest (Grade I) form of asbestosis involves the alveolated walls of respiratory bronchioles and the alveolar ducts (Figures 4 and 5). More severe histologic grades involve greater proportions of the acinus (Grade II) until the whole acinar structure is involved (Grade III asbestosis) and some alveoli are completely obliterated (Figure 5). Alveolar collapse, with fibrosis and honeycomb remodeling resulting in new dilated spaces in the parenchyma, results in the most severe grade of asbestosis (Grade IV) (64, 65) (Figure 6). These patterns of acinar fibrosis together with the demonstration of asbestos bodies in standard histologic sections are diagnostic of asbestosis.

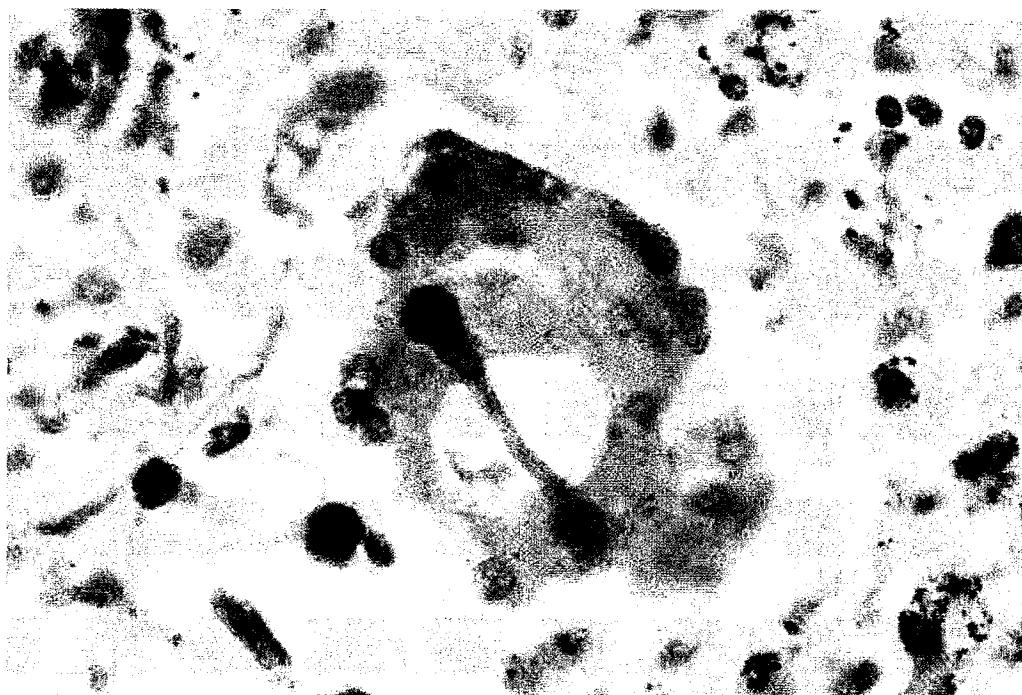


Figure 3. H&E-stained section demonstrating asbestos bodies within alveoli of person with asbestosis. At center is a single large asbestos body within a multinucleated giant cell.

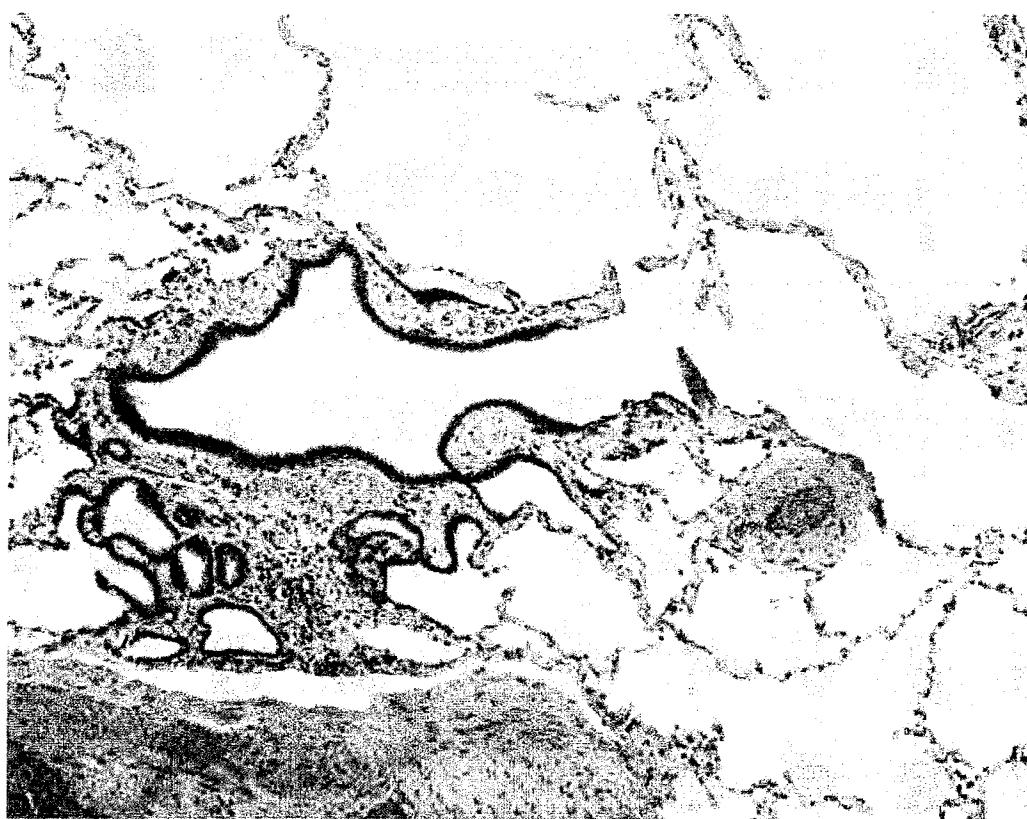


Figure 4. H&E-stained section showing junction of terminal (membranous) bronchiole with a respiratory bronchiole from a person with asbestosis who was an ex-smoker. The walls of the bronchioles are thickened by collagen and show mild smooth muscle hyperplasia. There is a mild chronic inflammatory cell infiltrate in the wall. These features are consistent with asbestos-related small airway disease.

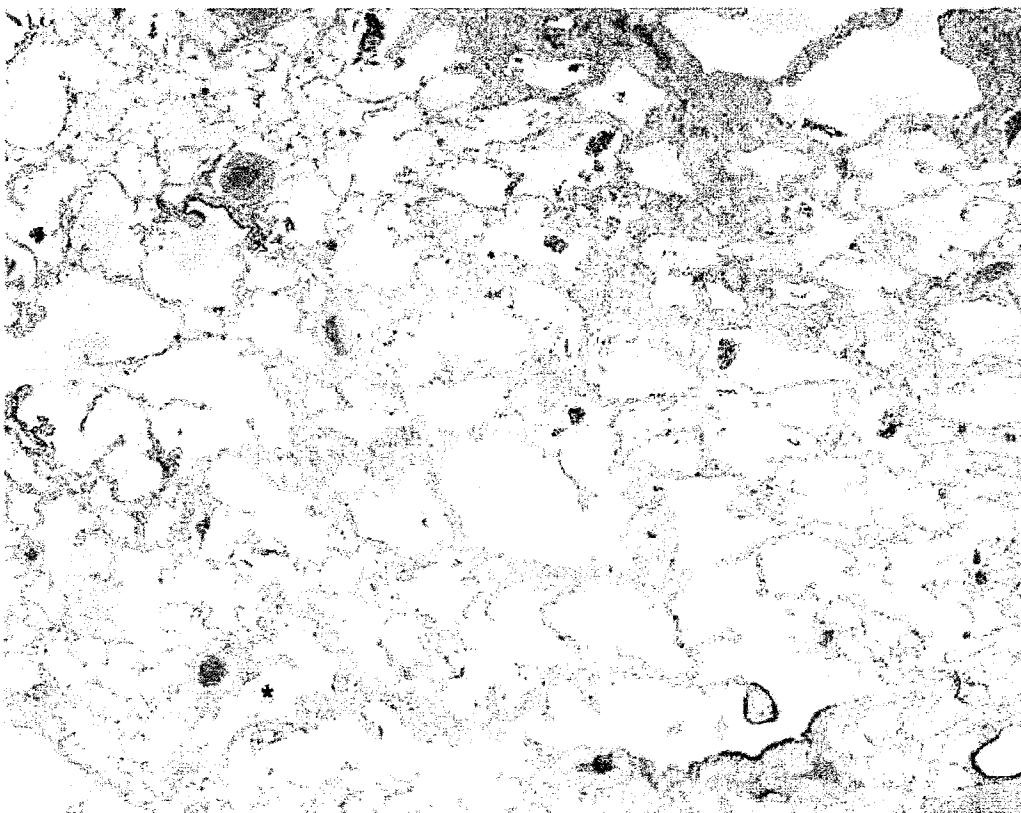


Figure 5. Photomicrograph showing predominantly Grade III asbestosis, partially defined by diffuse interstitial fibrosis extending from acinus to acinus. The respiratory bronchiole at bottom left (*) could be classified as a Grade I lesion (see Table 2).

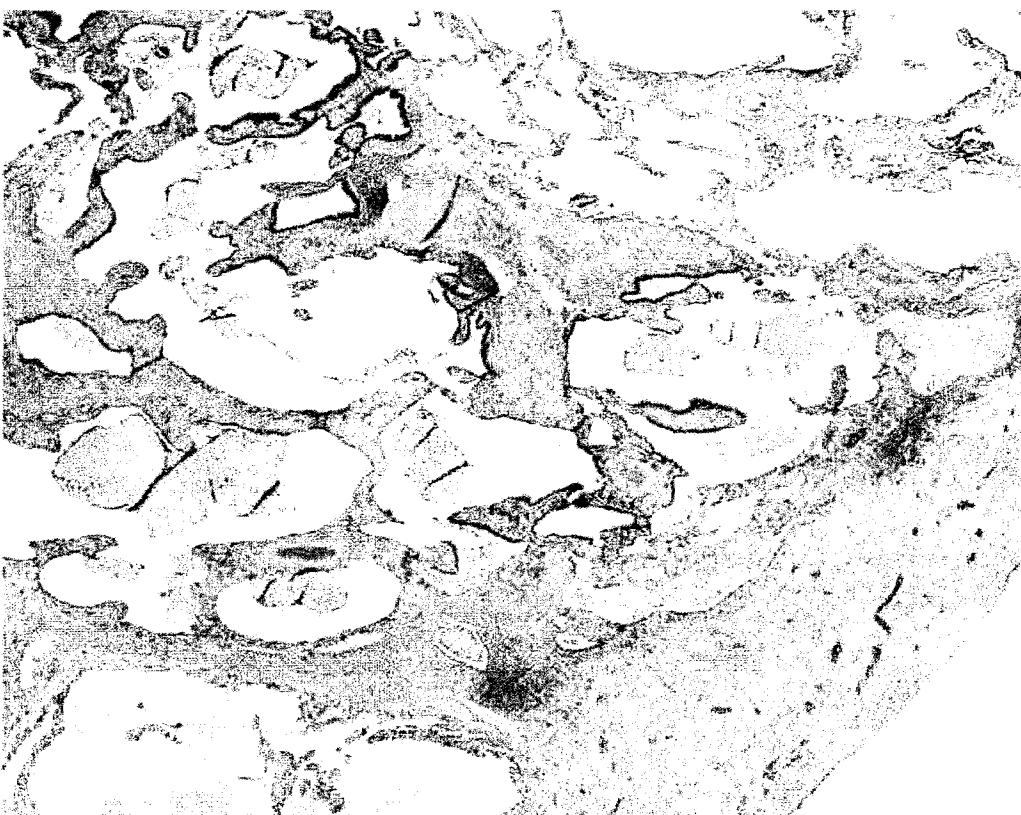


Figure 6. H&E-stained section of lung showing Grade IV asbestosis with honeycombing. The overlying pleura (bottom right) is also thickened.

TABLE 2. HISTOLOGIC GRADES OF ASBESTOSIS

Grade	Change
Grade of severity	
0	No fibrosis associated with bronchioles
1 or I	Early fibrosis involving walls of at least one respiratory bronchiole, with or without extension into septa of adjacent alveoli; fibrosis confined to alveolated walls of respiratory bronchioles and ducts and not present in more distant alveoli. Alveolitis and inflammation similar to that caused by cigarette smoking
2 or II	More severe fibrosis involving acinus: alveolar ducts and/or two or more layers of adjacent alveoli. Normal lung remains in a zone between adjacent bronchioles
3 or III	Fibrosis advanced and coalescent, involves entire acinus; all lung between at least two adjacent bronchioles is affected. Some alveoli are completely obliterated
4 or IV	Honeycomb remodeling and large (up to 1 cm) dilated spaces grossly visible in parenchyma
Grade of extent	
A or 1	Only occasional bronchioles are involved. Most appear normal
B or 2	"More than occasional" but less than half of bronchioles are involved
C or 3	More than half of bronchioles are involved

Developed in 1980 by a committee of the College of American Pathologists.

Iron stains may facilitate recognition of the asbestos bodies; however, the presence of asbestos bodies alone is not sufficient to establish the diagnosis of asbestosis. Asbestosis is associated with a variable degree (usually mild) of chronic inflammation and increased numbers of alveolar macrophages, including multinucleate giant cells. The grades of asbestosis correlate with counts and frequencies of asbestos fibers and bodies in the lung and estimates of cumulative workplace exposure (12, 66) (Table 2).

Only the more severe grades of asbestosis are detectable by gross examination. In its classic form, there is diffuse, bilateral, pale, firm fibrosis most severe in the peripheral zones of the lower lobes. Honeycomb cysts and areas of confluent fibrosis may be present (Figure 7). Milder forms of asbestosis and asbestos-associated small airway disease may not be apparent to gross inspection or to palpation, hence the importance of adequate sampling for histology. This should include peripheral and central areas of all lung lobes (depending on the specimen) as well as portions of visibly diseased lung. Adequate sampling of lung adjacent to resected tumors is particularly important and frequently overlooked or inadequately sampled by pathologists. It is strongly recommended that, when biopsy is performed, thoracic surgeons specifically request additional sampling of lung parenchyma in resected lung specimens from patients with known or suspected asbestos exposure (64, 65).

Asbestosis is more prevalent and more advanced for a given duration of exposure in cigarette smokers, presumably because of reduced clearance of asbestos fibers in the lung (67). Some studies suggest that smokers without dust exposure may show occasional irregular radiographic opacities on chest film, but if so the profusion is rarely as high as 1/0; smoking alone therefore does not result in a chest film with the characteristics of asbestosis (68). Both smokers and ex-smokers have a higher frequency of asbestos-related irregular opacities on their chest radiographs than do nonsmoking asbestos-exposed workers in all profusion categories (68–70). Smoking does not affect the presentation of asbestos-related pleural fibrosis.

Clinical diagnosis. Asbestosis is asbestos-induced pulmonary parenchymal fibrosis, with or without pleural thickening. To diagnose this disorder, one must establish the presence of pulmonary fibrosis and determine whether an exposure has occurred that is of sufficient duration, latency, and intensity to be causal.

Asbestosis becomes evident only after an appreciable latency period, often two decades under current conditions in the United States. In one study of former workers from an amosite asbestos insulation factory that had high levels of asbestos dust, employment for as little as 1 month resulted in a prevalence of 20% of parenchymal opacities 20 years after exposure ceased (70). The

duration and intensity of exposure probably influence the length of the latency period; relatively short-term, high-intensity exposures may be associated with a shorter latency than prolonged, lower intensity exposures.

Asbestosis is usually associated with dyspnea, bibasilar rales, and changes in pulmonary function: a restrictive pattern, mixed restrictive–obstructive pattern, and/or decreased diffusing capacity. The abnormal PA chest film and its interpretation remain the most important factors in establishing the presence of pulmonary fibrosis (Figure 8). Compensation systems may require that the chest radiographs be classified by the ILO system once it is established that the patient has been exposed to asbestos. A profusion of irregular opacities at the level of 1/0 is used as the boundary between normal and abnormal in the evaluation of the film, although the measure of profusion is continuous and there is no clear demarcation between 0/1 and 1/0 (Figure 9). When radiographic or lung function abnormalities are indeterminate, HRCT scanning is often useful in revealing characteristic parenchymal abnormalities as well as correlative pleural changes that are highly suggestive of asbestos exposure, particularly when they are bilateral. The specificity of the diagnosis of asbestosis increases with the number of consistent findings on chest film, the number of clinical features present (e.g., symptoms, signs, and pulmonary function changes), and the significance and strength of the history of exposure.

Although asbestosis is characteristically most advanced and appears earliest in the lower lung fields, there is a rare but well-characterized syndrome of massive bilateral upper lobe fibrosis, in the absence of tuberculosis or lung cancer (71–73).

The characteristic change in pulmonary function observed in asbestosis is a restrictive impairment, characterized by reduction in lung volumes (especially the FVC and total lung capacity), decreased diffusing capacity, and arterial hypoxemia (74, 75). Large airway function, as reflected by the FEV₁/FVC ratio, is generally well preserved. In one of the earliest studies conducted, about 50% of asbestos workers presented with FVC below 80% predicted. The frequency of abnormal vital capacity increased, and the mean vital capacity decreased by 18% over the subsequent 10 years (33, 75). The frequency and magnitude of the restrictive defect increased with ILO category (i.e., increased profusion of irregular opacities) and the presence of pleural changes.

Notwithstanding the predominantly parenchymal and restrictive pattern of the disease, airway obstruction can also be observed and can be seen alone in nonsmokers who have asbestosis. These patients usually have a restrictive pattern of lung function, but clinically they also feature an obstructive component charac-



Figure 7. Whole lung section of freeze-dried lung from a person who died of asbestosis. Note the peripheral honeycombing, which is most severe in the lower zones.

terized physiologically by increased isoflow volume, and increased upstream resistance at low lung volumes (14, 16). These obstructive findings may be due to asbestos-induced small airway disease. Thus, mixed restrictive and obstructive abnormalities do not rule out asbestosis or necessarily imply that asbestos has not caused an obstructive functional impairment (76).

Asbestosis may remain static or progress; regression is rare (77). The factors that determine prognosis and evolution of the disease are poorly understood. Progression, after cessation of exposure or reduction to current permissible exposure levels, is considerably more common in persons who already have radiographic abnormalities and appears to be associated with level and duration of exposure and therefore cumulative exposure (78).

Differential diagnosis. Although not usually necessary for the



Figure 8. Advanced asbestosis (details of case not available). Note characteristic features: fibrotic bands superimposed on a background of widespread irregular opacities, shaggy heart border and septal thickening, extensive pleural changes, and blunted costophrenic angles.

diagnosis of asbestosis when a significant exposure history is obtained, lung biopsy may be warranted to exclude other, potentially treatable diseases. Biopsy material may be helpful in identifying the nature of a disease in an indeterminate case or one lacking an adequate exposure history.

The presence of asbestos bodies in tissue sections should be



Figure 9. Early asbestosis, showing irregular opacities in lower lung fields that may be categorized as 0/1 or approaching 1/0 according to the ILO classification. Note pleural changes.

sufficient to differentiate asbestosis from other forms of interstitial fibrosis. The chance of finding one asbestos body from background exposure alone has been shown to be about 1 per 1,000 (79). Conversely, the presence of interstitial fibrosis in the absence of asbestos bodies is most likely not asbestosis, although rare cases of pulmonary fibrosis with large numbers of uncoated asbestos fibers have been described (80–82). Idiopathic pulmonary fibrosis (IPF in clinical terms or usual interstitial pneumonitis in terms of pathology) has an acinar pattern of fibrosis different from that of asbestosis and is not associated with asbestos bodies in tissue sections. On occasion, asbestosis is seen in conjunction with an unrelated interstitial lung disease (such as sarcoidosis) or in association with another pneumoconiosis, for example, silicosis. In the absence of fibrosis, asbestos bodies are an indication of exposure, not disease.

Asbestosis resembles a variety of other diffuse interstitial inflammatory and fibrotic processes in the lung and must be distinguished from other pneumoconioses, IPF, hypersensitivity pneumonitis, sarcoidosis, and other diseases of this class. The clinical features of asbestosis, although characteristic, are not individually unique or pathognomonic, but the characteristic signs of the disease are highly suggestive when they occur together. The presence of pleural plaques provides useful corollary evidence that the parenchymal process is asbestos related.

Diagnostic uncertainty is most likely in certain groups of patients. Patients may have a heavy cigarette-smoking history and concurrent emphysema (which also reduces the diffusing capacity). In such cases, one expects a history of asbestos exposure commensurate with the degree of disease. On occasion, a patient with another interstitial lung disease, such as IPF, will have a history of asbestos exposure. Rapid progression, with a visible, year-to-year increase in symptoms, progression of radiographic findings, and loss of pulmonary function in the absence of intense asbestos exposure, suggests the diagnosis of IPF rather than asbestosis.

Patients may be exposed at various times in their working life to more than one dust, such as silica and asbestos, or to mixed exposures, such as dusts in combination with fumes and vapors in welding (83). These patients may have combined disease or the effects of one dust or other exposure may dominate. For example, predominantly upper lobe rounded opacities, hilar node enlargement, and progressive massive fibrosis are not features of asbestosis and if present suggest other causes for the lung disease than asbestos, such as silicosis.

On occasion, isolated fibrotic lesions associated with asbestos resemble solitary pulmonary nodules. These are sometimes called "asbestomas" and usually occur against a background of irregular opacities; they rarely appear in isolation. They normally require biopsy because they are not distinguishable from lung malignancies otherwise (84).

Nonmalignant Pleural Abnormalities Associated with Asbestos

Pleural abnormalities associated with asbestos exposure are the result of collagen deposition resulting in subpleural thickening, which may subsequently calcify, and which in the visceral pleura may be associated with parenchymal fibrosis in adjacent subpleural alveoli (Figures 10 and 11). Pleural thickening, as a marker of asbestos exposure, has continued to be a prominent feature of exposure to asbestos while other outcomes, such as asbestosis, have become less frequent due to declining exposure levels. The major determinant of pleural thickening is duration from first exposure (70).

It is unclear whether the relative frequency of diffuse and circumscribed pleural thickening has changed. The *International Classification of Radiographs of Pneumoconioses* (38) provides

a basis for recording and classifying both types of pleural thickening, allowing correlation with indices of exposure and measurements of lung function. Manifestations of disease of the lung and of the pleura have become less evident and less characteristic on plain films as exposures have decreased. However, CT scan (including high-resolution images) detects pleural thickening not evident on the plain film, and sometimes fails to confirm apparent pleural thickening read on the plain film. Schemes to quantify extent of pleural thickening on CT scan have been published (55, 85). Rarely, interlobar pleural thickening may mimic lung nodules on CT scan (86).

Pleuritis: acute pleural effusion, chronic pleuritic pain. Asbestos may cause an acute pleural effusion, often lasting several months, that is exudative and often hemorrhagic, with variable numbers of erythrocytes, neutrophils, lymphocytes, mesothelial cells, and often eosinophils (87–89). It may occur early (within 10 years, unlike other asbestos-related diseases) or late after the onset of asbestos exposure (90). It may be superimposed on long-standing pleural plaques (91). Although it is usually asymptomatic, the acute pleural effusion due to asbestos may also be exuberant, with fever and severe pleuritic pain. It is sometimes detected only incidentally on a radiograph taken for another purpose (87, 88). The effusion may persist for months, present bilaterally, or recur on the same or the opposite side (87). A friction rub may be present (92, 93). The traces of pleural effusion may be observed years later as a blunted costophrenic angle or as diffuse pleural thickening. Acute pleuritis is thought to underlie many cases of diffuse pleural thickening. Of 20 insulators with a past history of definite pleural effusion, diffuse pleural thickening was detected on radiograph in 16 (90). Dose-response relationships or characteristic features of exposure associated with effusion have not been described.

Chronic severe pleuritic pain is rare in patients with asbestos-related pleural disease (92, 93). Vague discomfort appears to be more frequent. Studies examining the frequency of atypical chest pain in asbestos-exposed patients have not been performed. In the few cases described, it was present for many years, disabling, and often bilateral. Radiographic evidence of pleural disease ranged from plaques to extensive diffuse and circumscribed pleural thickening; several cases followed pleural effusions. The diagnosis of acute asbestos-related pleural effusion is by exclusion of other causes of acute pleuritis, and most often is not arrived at until the pleural space is fully explored and biopsied, generally by thoracoscopy. Differentiation from Dressler's syndrome is difficult in asbestos-exposed patients who have undergone recent cardiac surgery. Differentiation from mesothelioma or pleural extension of a pulmonary malignancy is critical, and may be difficult on clinical grounds (including positive gallium and positron emission scan). Pleural fluid cytology is useful for distinguishing benign from malignant effusions. It is not unusual for nonspecific effusions to precede mesothelioma by several years. If a malignancy has not manifested itself within 3 years, the effusion is generally considered benign.

The diagnosis of chronic pleuritis manifested by pleuritic pain is reached by excluding malignancies, because most other causes of acute pleuritis do not result in chronic pain. Malignancy is unlikely when pain persists for years with little or no clinical or radiographic change.

Plaques: circumscribed pleural thickening. Pleural plaques are indicators of exposure to asbestos. They are clearly the most common manifestation of the inhalation, retention, and biologic effect of asbestos. Their prevalence is most directly related to duration from first exposure; they are rare within less than 20 years. Pleural plaques consistent with asbestos exposure appear in chest films of 2.3% of U.S. males, a percentage that has been

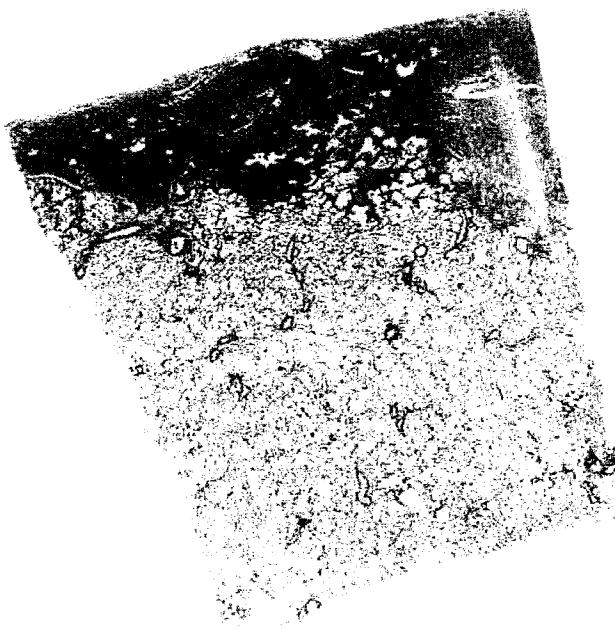


Figure 10. Photomicrograph of H&E-stained section of lung from a person with mild asbestosis. There is marked fibrosis of the pleura with some subpleural fibrosis. Higher power magnification of the same section showed that minimal disease was also present around the small respiratory bronchioles.

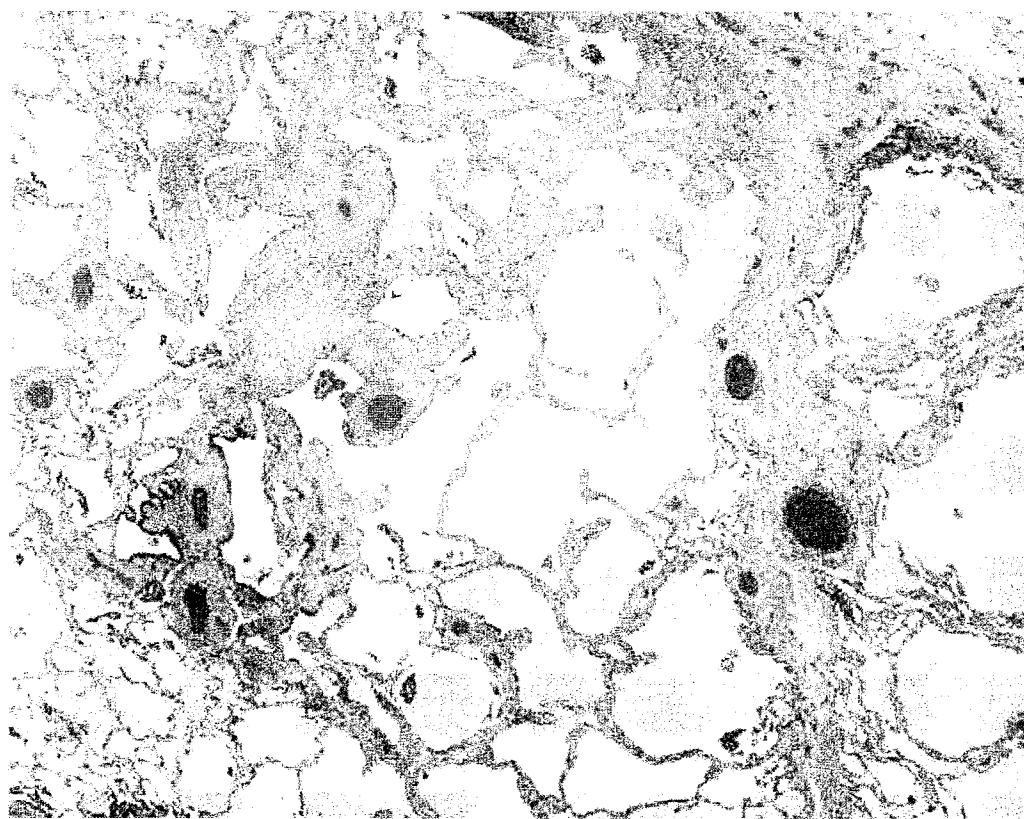


Figure 11. Photomicrograph of H&E-stained section of a person with Grade III asbestosis showing fibrosis in the lung parenchyma and overlying visceral pleura, with extension of the fibrosis into the interlobular septa.



Figure 12. Gross appearance at autopsy of asbestos-associated pleural plaques overlying the lateral thoracic wall.

remarkably stable both for the general population in the early 1970s and veterans in the 1990s (94, 95).

Calcification is similarly related to duration. Smoking plays no role in the prevalence of pleural plaques (68). Pleural plaques are bilateral, but not symmetric, lesions of the parietal pleura. Characteristically, they are found following the ribs on the lower posterior thoracic wall (Figure 12) and over the central tendons of the diaphragm (Figure 13). They are raised, sharply circumscribed with a smooth or with a rounded knobby surface, and range in color from white to pale yellow. They generally spare the costophrenic angles and apices of the thoracic cavity. Microscopically, they consist of mature collagen fibers arranged in an open basket-weave pattern and are covered by flattened or cuboidal mesothelial cells. They are relatively avascular and acellular and show minimal inflammation. They are sharply demarcated from subpleural tissues and central calcification is common. Asbestos bodies are not seen in or adjacent to the lesions (64). Isolated plaques may be associated with tuberculosis, trauma, and hemothorax; however, multiple lesions having the classic appearances described above are almost invariably associated with asbestos exposure.

The conventional chest film is a sensitive and appropriate imaging method for plaques, although it may identify abnormalities that resemble plaques but are not. In the PA radiograph, they are best seen in profile on the midlateral chest walls and on the diaphragm or face on, and show serrated borders. HRCT is not a practical screening method for demonstrating plaques because of the separation between sections, the high radiation exposure, and the lack of access to the test in some locations. HRCT is useful to identify questionable abnormalities and to resolve questions about structures that resemble plaques.

Typical pleural plaques are easily identified on plain films by sharp, often foliate, borders (face on) and by a raised straight surface with clear, cut-off edges when seen face on (Figures 14–16) and as irregular margins (sometimes almost rectangular) when seen in profile on the chest wall or diaphragm. Apparent pleural thickening with gradually tapering or indistinct edges is often due to subpleural fat or superimposed soft tissue; fat pads below the parietal pleura typically occur in the midthoracic wall,

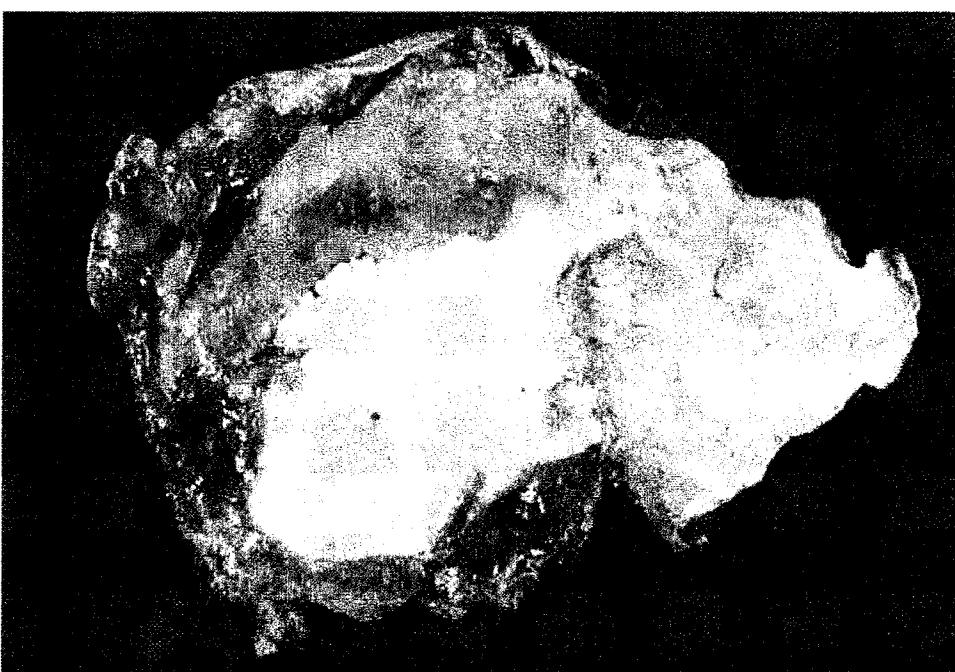


Figure 13. Gross appearance of large asbestos-related pleural plaque over the dome of the diaphragm.

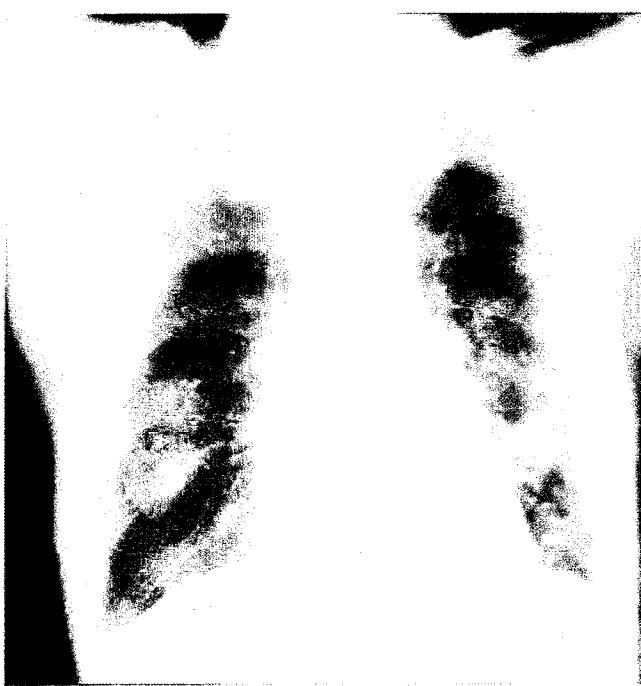


Figure 14. En face (face on) pleural plaques in a chest film with minimal parenchymal disease; worker was 54 years old at the time this chest film was taken (1982) and was exposed to asbestos in the 1960s as an insulation worker.



Figure 15. Pleural plaque, with linear calcification, seen on edge on the right hemidiaphragm in a 72-year-old sheet metal worker. No visible parenchymal disease.

between the fourth and eighth ribs, as do pleural plaques (51). Proper penetration is important on plain film; differentiation of fat from pleural plaques may still be difficult but is readily made by HRCT. Less typical plaques on the diaphragm may be difficult to detect and should be distinguished from atelectatic streaks, visceral folds, or diaphragmatic straightening caused by bullae. Calcification is helpful but may not be apparent in an underpenetrated film (Figure 14). Axial CT scans often fail to image diaphragmatic plaques (96).

The origin of pleural plaques is not clear (97, 98). The burden of asbestos fibers in lung tissue and of asbestos bodies in bronchoalveolar lavage fluid is greatly increased in patients with diffuse pleural thickening or asbestosis and moderately increased in patients with pleural plaques compared with unexposed subjects (99–101). The presence of pleural plaques is correlated with parenchymal disease, in particular fibrotic bands and both peribronchiolar and alveolar fibrosis. However, peribronchiolar fibrosis is absent in many cases with pleural plaques and present in many cases without them (102).

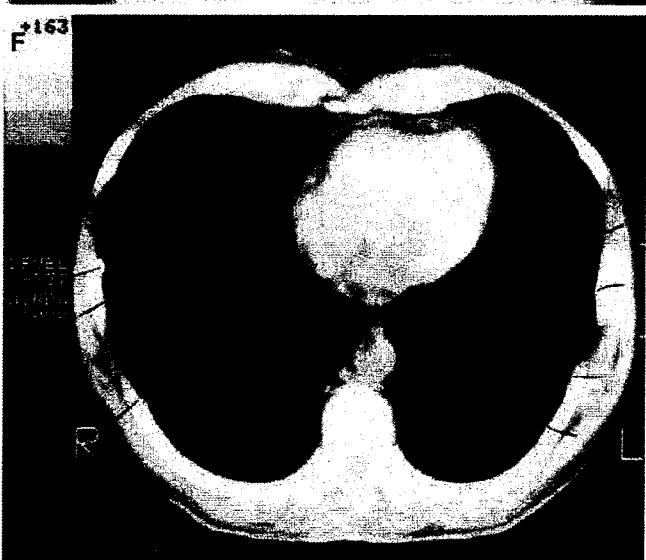
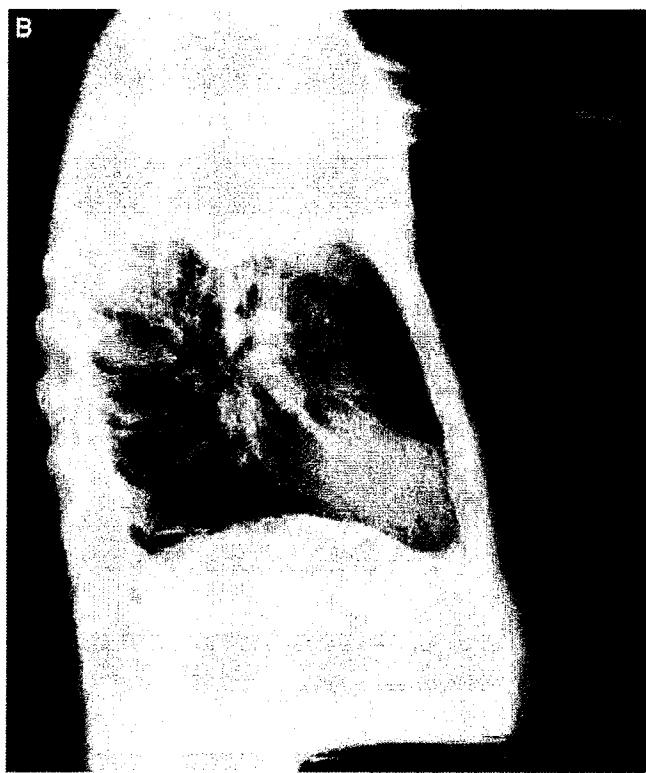
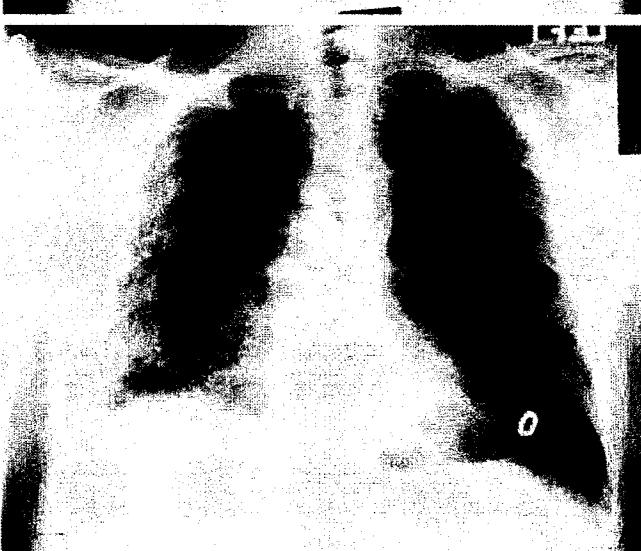
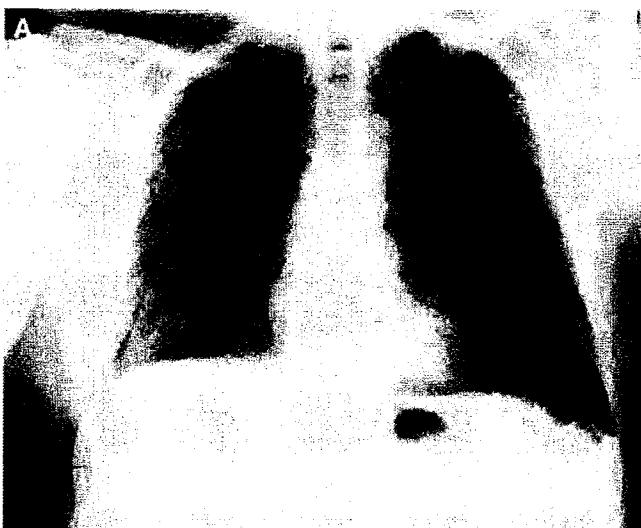
Slow progression of plaques is typical. Approximately 85% of heavily exposed workers showed pleural thickening (predominantly plaques) on plain film more than 40 years from first exposure (103), as did up to 17% of environmentally exposed populations (104). More than half the cases were bilateral.

The presence of plaques is associated with a greater risk of mesothelioma and of lung cancer compared with subjects with comparable histories of asbestos exposure who do not have plaques (105, 106). This is thought to be due to greater exposure or retained body burden, not malignant degeneration. Therefore, the presence of pleural plaques should be interpreted as a marker for elevated risk of malignancy, which may be higher than the occupational history alone might suggest.

Although pleural plaques have long been considered inconse-

quential markers of asbestos exposure, studies of large cohorts have shown a significant reduction in lung function attributable to the plaques, averaging about 5% of FVC, even when interstitial fibrosis (asbestosis) is absent radiographically (74, 76, 107). The presence of circumscribed plaques can be associated with restrictive impairment and diminished diffusing capacity on pulmonary function testing, even in the absence of radiographic evidence of interstitial fibrosis (108, 109). Taking into account the degree of interstitial fibrosis as measured by ILD profusion score (described below), smoking, and duration of asbestos exposure, significant decrements in vital capacity have been observed: a reduction of up to 140 ml or more of FVC associated with circumscribed plaques (76). This has not been a consistent finding (110, 111) and longitudinal studies have not shown a more rapid decrement in pulmonary function in subjects with pleural plaques (112). Decrement, when they occur, are probably related to early subclinical fibrosis. Dyspnea on exertion was reported more often among subjects with circumscribed pleural thickening independent of parenchymal disease and appeared to be proportional to the extent (110). There is a significant but small association between the extent of circumscribed pleural plaques and FVC, which is not seen with diffuse pleural thickening (112, 113). Even so, most people with pleural plaques alone have well preserved lung function (55).

It is unclear whether this small effect on lung function is sufficient to contribute to dyspnea but there is evidence that it might. Half of subjects with pleural thickening but normal chest films and normal lung function showed excessive ventilation with exercise, which can contribute to dyspnea (114). Excessive ventilation on exercise could be the result of decreased chest wall and/or lung compliance caused by pleural thickening alone or to decreased lung compliance and ventilation-perfusion imbalance caused by parenchymal fibrosis that was not detected radiographically.



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Plaques are indicators of increased risk for the future development of asbestosis (94). This may reflect greater exposure or retained body burden. An autopsy study has demonstrated more frequent peribronchiolar fibrosis when plaques are present (90). This finding, as well as derangements in gas exchange (114) and evidence from HRCT, indicate that subradiographic asbestosis may be present in some patients with only pleural plaques. The presence of plaques is therefore an indication to monitor the patient over time for interstitial fibrosis (115).

Diffuse pleural thickening. Diffuse thickening of the visceral pleura is not sharply demarcated and is often associated with fibrous strands ("crow's feet") extending into the parenchyma. In large surveys of asbestos-exposed workers, diffuse pleural thickening has ranged from 9 to 22% of those with pleural disease. Both circumscribed and diffuse pleural thickening may be present in the same hemithorax. Diffuse pleural thickening superimposed on circumscribed plaques has been observed, often after pleural effusion (91).

The frequency of diffuse pleural thickening increases with time from first exposure and is thought to be dose related (104). Diffuse pleural thickening has been observed after acute pleuritis (90). It may also be caused by extension of interstitial fibrosis to the visceral pleura, consistent with the pleural migration of asbestos fibers. The extent of diffuse pleural thickening seems to be more or less uniformly distributed, the different degrees being fairly equally often seen, however, in contradistinction to circumscribed pleural thickening, in which the lowest categories are more frequent (113). Lung burdens of asbestos in these cases are intermediate between asbestosis and pleural plaques (116–118).

This condition affects the visceral pleural surface and is quite different in appearance from the parietal pleural plaque. It consists of pale gray diffuse thickening that blends at the edges with the more normal pleura. It may be extensive and cover a whole lobe or whole lung and obliterate lobar fissures. It ranges in thickness from less than 1 mm up to 1 cm or more. Adhesions to the parietal pleura are common, particularly opposite to pleural plaques. The lesion may show a gradient with immature granulation tissue and fibrin at the surface, progressing to mature collagen adjacent to the lung. The fibrosis may extend for a few millimeters into the lung parenchyma and into the lobular septae. The latter features do not constitute asbestosis.

Diffuse pleural thickening may have a significantly greater impact on pulmonary function than circumscribed plaques. A reduction of 270 ml of FVC has been associated with diffuse pleural thickening (76, 119). Workers with diffuse pleural thickening have a significantly greater decrement in FVC (by a factor of two or more) than those with circumscribed pleural thickening (76, 113). This effect is unrelated to the radiographic extent of pleural thickening; a similar reduction in FVC was seen with little more than costophrenic angle blunting as with extensive involvement (113). Decrement associated with diffuse pleural thickening reflect pulmonary restriction as a result of adhesions of the parietal with the visceral pleura. Restrictive impairment is characteristic, with relative preservation of diffusing capacity (pattern of entrapped lung).

Diffuse pleural fibrosis extends continuously over a portion of the visceral pleura, often causing adhesions to the parietal pleura, involving the fissures and obliterating the costophrenic angle. The newly revised ILO classification (2003) recognizes pleural thickening as diffuse "only in the presence of and in continuity with, an obliterated costophrenic angle" (38). Localized subpleural parenchymal fibrosis is often present without diffuse interstitial fibrosis (117). Calcification of the pleura occurs with the passage of time, and may involve fissures. A rare variant of visceral pleural fibrosis is progressive apical thickening associated with fibrosis of the upper lobe (120, 121).

Pachypleuritis is extensive, often bilateral, pleural fibrosis with evidence of active inflammation histologically and by gallium uptake. Extension of fibrosis into the lung is often evident radiographically as irregular pleural and pericardial borders, fibrous streaks, or "crow's feet" and bands. Ventilatory failure leading to CO₂ retention, cor pulmonale, and death has been described in four patients with bilateral involvement and little or no parenchymal fibrosis, and in one patient with unilateral pleural thickening. Decortication may be beneficial (122).

Rounded atelectasis. Rounded atelectasis (123, 124), also known as shrinking pleuritis, contracted pleurisy, pleuroma, Blesovsky's syndrome (125), or folded lung, presents radiographically as a mass and may be mistaken for a tumor (Figure 17). The condition may result from pleuritis of any cause. The lesion is thought to develop from infolding of thickened visceral pleura with collapse of the intervening lung parenchyma. Clinical experience suggests that it is more likely to occur today as a result of asbestos exposure than other causes. The classic "comet sign" is pathognomonic and is often more readily seen on an HRCT than on plain films. Clues to its identity are a band connecting the mass to an area of thickened pleura and a slower evolution than that of a lung cancer, so that previous films will show a similar finding. Histologic examination shows folded and fibrotic visceral pleura with atelectasis and variable amounts of chronic inflammation in the adjacent lung parenchyma. The sudden appearance of rounded atelectasis may follow acute pleuritis with effusion. Rounded atelectasis may be multiple and bilateral (124, 126).

Rounded atelectasis is important for the diagnostic pathologist to recognize as it is frequently removed surgically as a suspected peripheral lung cancer. Asbestos bodies and/or evidence of asbestosis should be carefully sought.

Differential diagnosis, including rounded atelectasis and apical thickening. Acute pleuritis of any cause can result in diffuse pleural thickening that is indistinguishable from that associated with asbestos, although such causes are usually unilateral. The most likely causes, empyema, tuberculosis, and trauma, including surgery, are likely to be identified in the medical history. Empyema in childhood or an infected pleural effusion associated with pneumonia may not be.

The major differential diagnostic consideration with diffuse pleural thickening is mesothelioma, which is progressive and more likely to be symptomatic at the time of detection. On occasion, when fibrosis and mesothelial proliferation are exuberant, the distinction is difficult clinically, radiographically, and histologically. Apical thickening (120, 122) must also be distin-

Figure 16. Extensive evaluation in 1983 of a 65-year-old business executive who, in the 1950s, had worked in shipyards for approximately 2 years and was exposed to high levels of asbestos. This case is unusual because both early asbestosis and a huge pleural plaque are unilateral. (A) PA film shows asbestosis and an extensive pleural plaque extending over three-quarters of the length of the hemithorax. Right costophrenic angle is blunted but would not satisfy strict criteria for this according to the ILO classification. (B) Lateral film, showing extensive calcified plaques over diaphragm, also visible on left in PA film. (C) Because of concern for possible mass in right lower lung lobe, PA film was repeated with nipple markers: mass not seen in this view. (D) Left anterior oblique, showing absence of other plaques on chest wall. (E) Right anterior oblique, showing detail of plaque. (F) CT scan, showing plaque.

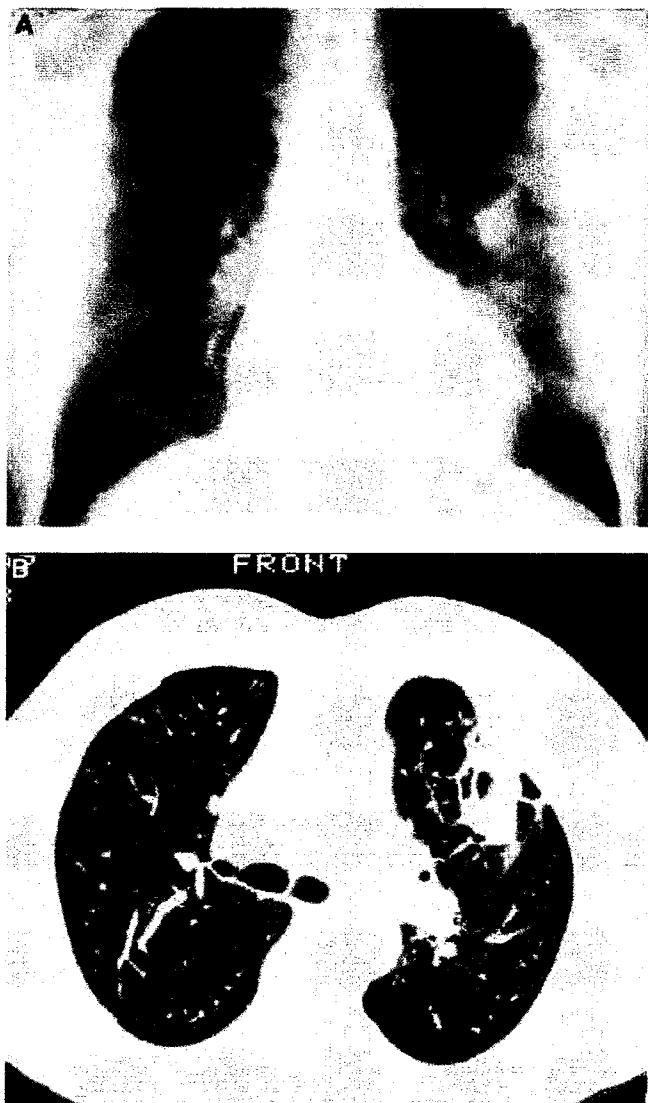


Figure 17. Rounded atelectasis in a 57-year-old sheet metal worker. (A) Presentation as a mass in the left chest. (B) CT scan showing pleural base and infolding of structures.

guished from mesothelioma and tuberculosis, which may be suggested by history and (previous) bacteriologic findings.

Chronic Airway Obstruction

Asbestos exposure has traditionally been considered to cause predominantly restrictive physiologic abnormalities. The role of asbestos as a cause of airway obstruction has been controversial. However, asbestos exposure has long been known to be associated with an obstructive physiological abnormality (127–129). This association might arise in one or more of several ways:

- Asbestos specifically causes obstructive abnormality.
- Asbestos causes obstructive abnormality nonspecifically (i.e., as do large burdens of most inorganic dusts) (83, 130).
- Work leading to extensive asbestos exposure is frequently associated with exposure to other agents affecting airways.
- Confounding by tobacco smoking may lead to an association.
- Anatomic and physiologic airway abnormalities develop

as part of the pathophysiologic process of asbestosis and are not an independent entity.

Asbestos-related chronic airway obstruction may result in reduction in the FEV₁/FVC ratio associated with reduced FEV₁ (29, 76, 113, 127). Epidemiologic studies have demonstrated a significant association between asbestos exposure or asbestosis category as defined radiographically and reduction in FEV₁, FEV₁/FVC ratio, and midexpiratory flow rates (111, 130–133). The relationship between surrogate measures of exposure and the FEV₁ and FEV₁/FVC ratio also occurs in subjects who do not have radiographic evidence of asbestosis (defined as an ILO score exceeding 1/0) (130, 133, 134). A small effect has been observed in lifelong nonsmokers (14, 113, 135, 136). This effect begins in small airways, consistent with the known pathology of bronchiolitis in early asbestosis (136, 137). Radiographically, airflow abnormalities may also be associated with emphysema (138).

Histologically, inflammation and airway fibrosis characterize asbestos-related small airway disease. A major site of asbestos deposition is in the walls of membranous and respiratory bronchioles. In the walls of membranous bronchioles this leads to fibrosis and smooth muscle hyperplasia that are similar, but more severe, than that produced by cigarette smoking (128, 139) (Figures 4, 5, and 18). The respiratory bronchioles show fibrosis, which extends into the alveolated portions of the walls and alveolar ducts (Figure 19). In this regard, it differs from the lesion of cigarette smoking, which primarily involves the nonalveolated portions of the first generation of respiratory bronchioles (140). Asbestos bodies are not present in the walls of the membranous bronchioles, although inflammatory changes are present, but are commonly seen in the walls of the respiratory bronchioles and/or adjacent alveoli. Some authorities consider it appropriate to describe these lesions as true asbestosis because the walls of respiratory bronchioles are largely alveolated and therefore within the gas exchange region of the lung (64). Others consider the small airway lesions as distinct from asbestosis and refer to the lesions of both membranous and respiratory bronchioles as asbestos-induced small airway disease (12). These small airway lesions are the likely anatomic basis for airflow limitation in asbestos-exposed individuals.

In general, the magnitude of the asbestos effect on airway function is relatively small. This effect, by itself, is unlikely to result in functional impairment or the usual symptoms and signs of chronic obstructive pulmonary disease. However, if superimposed on another disease process, the additional loss of function due to the asbestos effect might contribute significantly to increased functional impairment, especially in persons with low lung function.

Asbestos exposure independently contributes to accelerated decline in airflow over time, whether or not exposure ceases (77, 129, 133, 134, 141). Dyspnea, cigarette smoking, diffuse pleural thickening, honeycombing observed on HRCT scan, and indicators of active inflammation have been associated with worsening obstruction (142). Effects on measures of early small airway dysfunction (e.g., midexpiratory flow rates) in themselves are unlikely to produce clinically relevant impairment, but may indicate an increased probability that disease will develop later (128, 129, 134, 143). Development or persistence of respiratory symptoms among asbestos-exposed workers is associated with accelerated loss of lung function, both FVC and FEV₁ (30). In patients with severe obstructive airway disease from another cause, the additional contribution of asbestos-related airflow obstruction might be functionally significant at low levels of lung function. Short duration and low cumulative exposure are less likely to produce significant obstructive abnormality (112, 134).

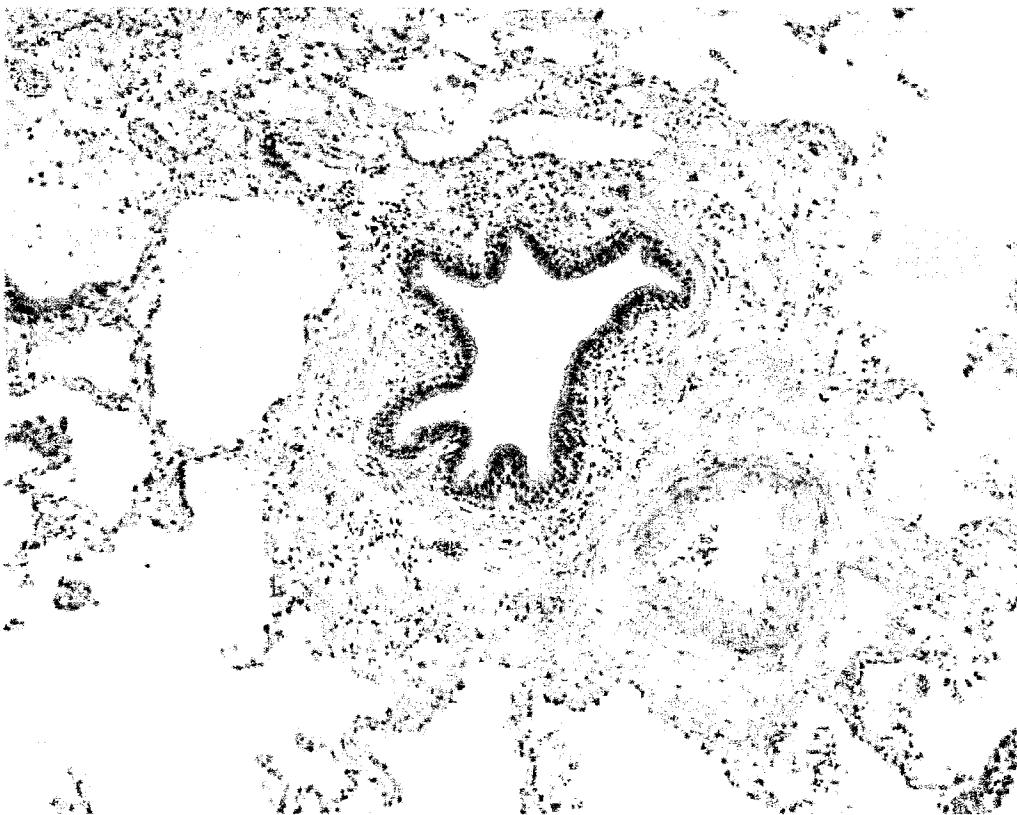


Figure 18. Photomicrograph of asbestos-related small airway disease, showing thickened membranous bronchiole. There is also fibrosis around the airway, and a mild chronic inflammatory cell infiltrate in its wall.

Assessment of functional impairment of clinical significance (3) should generally be based on the restrictive findings associated with asbestosis, as these are more likely to be disabling. However, the addition of obstructive disease adds to the level of functional impairment (144). Treating restriction and obstruction separately may underestimate their combined effect on impairment. The normal indicator for restrictive impairment, total lung capacity, has proven to be insensitive to total impairment in subjects with both asbestosis and chronic obstructive lung disease. In such cases, diffusing capacity and alveolar-arterial oxygen difference may be more revealing (144). Some of the restrictive component may be contributed by air trapping rather than fibrosis (145).

Chronic obstructive airway disease that is not due to asbestos (e.g., secondary to smoking) may complicate the recognition of asbestosis. For example, total lung capacity may be normal when both disorders are present, due to a restrictive process offsetting air trapping (143). Whereas the FEV₁/FVC ratio may be reduced in asbestos-exposed persons with no or a low profusion of small, irregular opacities, this ratio may also be normal in more advanced asbestosis (i.e., with higher profusion and diminished FVC) because of a reduction in FVC (75).

Effects on airflow begin before the development of asbestosis (129). In individuals who develop asbestosis, physiologic findings associated with airflow obstruction (e.g., reduction in the FEV₁/FVC ratio) become less prominent as asbestosis progresses; this may reflect increased pulmonary recoil.

The dose and time course of asbestos-associated airway abnormalities have received limited attention. Many available stud-

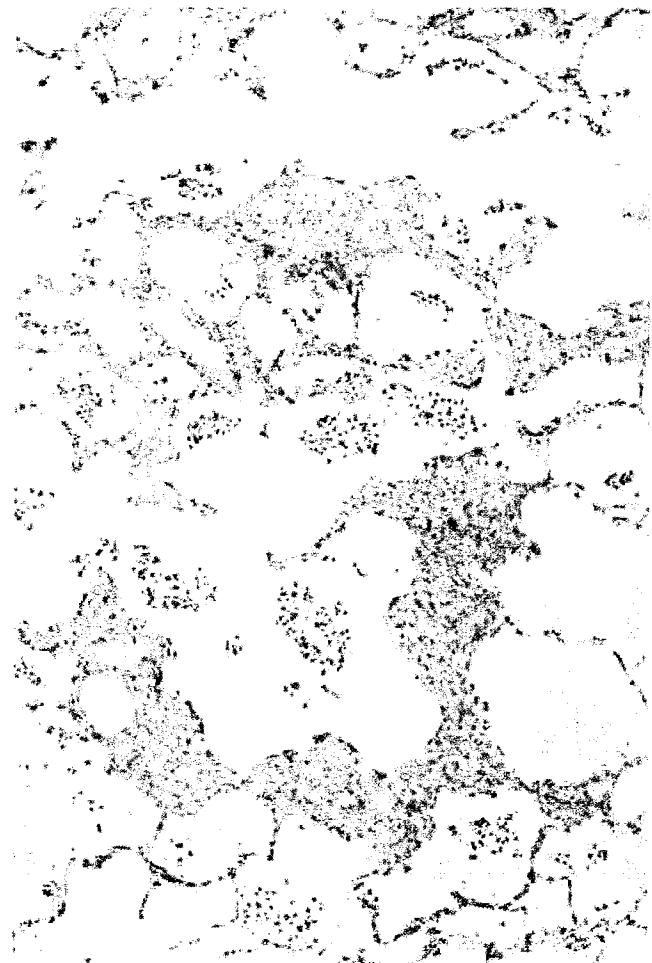


Figure 19. Photomicrograph of asbestos-related small airway disease, in this case a respiratory bronchiole, with extension of the fibrosis into the adjacent parenchyma (Grade II asbestosis; see Table 2).

TABLE 3. RECOMMENDATIONS FOR MANAGEMENT AFTER DIAGNOSIS OF ASBESTOSIS

1. Patient notification
 - 1.1. Inform patient of work-related illness
 - 1.2. Report to appropriate authority as occupational disease, as required by law
 - 1.3. Inform patient that there are options for compensation
2. Impairment assessment
 - 2.1. Conduct an assessment of functional impairment
 - 2.2. Rate impairment in accordance with ATS criteria,⁴ which are incorporated into the AMA Guides⁵
3. Tertiary prevention
 - 3.1. Smoking cessation (primary prevention for smoking-related disorders)
 - 3.2. Withdrawal from further excessive exposure⁶
 - 3.3. Immunization (pneumococcal pneumonia, influenza)
 - 3.4. Management of concurrent respiratory and other diseases
4. Monitoring
 - 4.1. Chest film and pulmonary function testing⁷ should be conducted every 3 to 5 years
 - 4.2. Active monitoring (periodic screening) for colon cancer
 - 4.3. Observation and elevated index of suspicion but not screening for lung cancer, mesothelioma, gastrointestinal cancers (other than colon)
5. Development of a patient-specific management plan for symptomatic disease

Definition of abbreviations: AMA = American Medical Association; ATS = American Thoracic Society.

* See Reference 3.

[†] See Reference 157.

[‡] See text.

[§] See References 4 and 5.

ies reflect relatively high historical levels of exposure. Among nonsmoking Chinese asbestos workers, association of cumulative exposure with functional effects was seen only among those with long-term exposure (133).

Tobacco smoking is the predominant cause of chronic airway obstruction in asbestos-exposed workers who smoke, although occupational exposures can be significant. The association between airway obstruction and exposure to asbestos has been well demonstrated in nonsmokers, and in some studies the association between exposure and airway obstruction is seen only among nonsmokers (131); among smoking asbestos-exposed workers, smoking accounts for most of the small airway abnormality (111, 127, 135, 141, 142). In addition to smoking, other occupational exposures might contribute to chronic obstructive airway disease; effects of asbestos in producing airflow obstruction are likely to be additive to these. There may be an interaction between smoking and asbestos in the development of airway obstruction, as has been demonstrated in animal models (146), but this has not yet been demonstrated for human subjects.

IMPLICATIONS OF DIAGNOSIS FOR PATIENT MANAGEMENT

A history of significant asbestos exposure obligates the responsible physician to provide a management plan for the patient that takes into consideration current disease and impairment as well as future risk (147). A recommended management plan is summarized in Table 3.

Workers referred for evaluation of asbestos-related disease today differ from those referred in past years. Exposure to asbestos among these workers is likely to be more remote in time and to have been less intense. Exposed workers may live longer and progress later to more advanced stages of disease. They are more likely to survive to develop additional outcomes associated with asbestos, such as malignancy, and to present more complicated management challenges (148).

Actions Required before Disease Is Apparent

A recent or short-term history of exposure to asbestos, particularly in the absence of detail on duration and intensity, requires the clinician at a minimum to educate the patient with respect

to latency, the exposure-response relationship characteristic of asbestos-related diseases, and the future risk of malignant disease. Reassurance should be offered where appropriate and the risk placed into the context of the exposure history. This is often an excellent opportunity at the same time to review the patient's history, work hygiene practices, behavior and attitudes toward cigarette smoking, as well as exposure to other occupational and environmental carcinogens (149).

For all patients presenting with a history of significant or possibly significant exposure, at a minimum a baseline, high-quality chest film should be obtained, together with spirometry and a single-breath diffusing capacity that conform to American Thoracic Society guidelines. Complete pulmonary function testing should be obtained if clinically indicated. Workers who have had exposure to asbestos have also often worked in other dusty occupations. They and their families may have lived in communities where they experienced environmental exposures.

The sensitivity of the plain chest film for identifying asbestosis at a profusion level of 1/0 (in the ILO classification system) has been estimated at or slightly below 90%. The corresponding specificity has been estimated at 93%. Applied to populations with varying prevalence of disease, the positive predictive value of the minimally abnormal chest film alone in making the diagnosis of asbestosis may fall below 30% when exposure to asbestos has been infrequent and exceed 50% when it has been prevalent. This suggests that screening programs based on the chest film alone may vary considerably in their yield of true cases depending on the characteristics of the population being screened. In the general population and for occupational groups with low levels of exposure they may be unreliable in identifying asbestosis. The application of multiple criteria, as outlined in this statement, is a preferable approach (150). However, combinations of tests for a specific criterion, such as a hypothetical requirement that multiple tests for pulmonary function be abnormal, would reduce the sensitivity without enhancing specificity for asbestos-related disease; in general, the most sensitive test for a particular criterion is preferable (2).

Persons identified as having asbestos-related disease or a significant exposure history should be informed of the risk of progression of disease, the risk of malignancy, and especially

the interaction between smoking and asbestos exposure in enhancing the risk of lung cancer. Such persons who smoke may be more motivated to consider cessation when the connection between asbestos and the risk of respiratory impairment and of malignancy is brought up at this time (151). The risk conferred by other occupational and environmental carcinogens should also be emphasized at this time.

The question of monitoring for asbestos-related disease is complicated by requirements for occupational surveillance, especially for those with minimal exposure. The Occupational Safety and Health Administration asbestos standard requires employers to monitor their asbestos-exposed workers during employment but makes no provision beyond the period of employment, despite the latency, and private insurance may or may not allow the expense thereafter (8).

Persons with a history of exposure to asbestos but no manifest disease, and for whom the time since initial exposure is 10 years or more, may reasonably be monitored with chest films and pulmonary function studies every 3 to 5 years to identify the onset of asbestos-related disease.

Persons with a history of exposure to asbestos are also at risk for asbestos-related malignancies. Periodic health surveillance for lung cancer or mesothelioma is not recommended. Screening for lung cancer using periodic (annual) chest films, low-dose computed tomography, or sputum cytology has not been shown to be effective in preventing mortality or improving quality of life in populations of smokers without known adverse occupational exposures (152, 153). New technologies (e.g., low-dose spiral CT scanning) are being evaluated for use in high-risk groups (153). The risk of extrathoracic malignancies may also be increased in asbestos-exposed workers. Studies suggest that there may be an elevation in the risk of colon cancer (149, 150), although this remains controversial (154). Because colon cancer is often treatable and screening for colorectal cancer is recommended by the American Cancer Society for persons more than 50 years of age (155), it is reasonable on the basis of current evidence to screen for this condition. The risk of cancer of the larynx (156) and possibly gastrointestinal cancers other than colon, including pancreas, stomach, and esophagus (154), may also be increased with asbestos exposure, but the presence and magnitude of an association with asbestos remain controversial for extrathoracic cancers (154). Routine screening for these cancers is in any case not practical at present.

No prophylactic medication or treatment is currently available to prevent the development or progression of asbestosis or other asbestos-related diseases, once exposure has occurred.

Actions Required after Diagnosis

The diagnosis of asbestosis, in particular, imposes a duty to inform the patient that he or she has a disease that is work-related, to report the disease, and to inform the patient that he or she may have legal or adjudication options for compensation. The role of the physician in this compensation process includes performing an objective evaluation of impairment consistent with the rules of the specific compensation system. Guidelines developed by the American Thoracic Society (3) may be of use and are incorporated into the *AMA Guides to the Evaluation of Permanent Impairment* (157). As in the management of any lung disorder, the physician should also manage the clinical manifestations of the disease and counsel the patient to protect remaining lung function.

The patient with evidence of asbestosis should be considered to be at risk of progressive lung disease, whatever the level of impairment on first encounter. It seems logical that removal from further exposure to asbestos or other significant occupational and environmental exposures may avoid more rapid pro-

gression of lung disease, although specific evidence for this is lacking. However, if such exposures are minimal and are well within occupational guidelines, care must be taken not to deprive the patient of a livelihood for no clinical benefit.

Immunization against pneumococcal pneumonia and annual influenza vaccine should be administered unless contraindicated for other reasons. Effective management of concurrent chronic obstructive pulmonary disease or asthma, if present, may reduce morbidity from mixed disease.

Severe asbestosis is rare in the United States and other countries with generally effective occupational health regulation. Cor pulmonale, secondary polycythemia, and respiratory insufficiency and failure are all treated in the conventional manner in patients with asbestosis.

In the spring of 2000, the Association of Occupational and Environmental Clinics adopted a resolution recommending necessary standards for screening programs (158). This action was taken in response to the proliferation of screening programs undertaken to identify cases for possible legal actions in which counseling and education may be lacking (159), but the recommendations also apply to those conducted for patient care and protection. Their recommendations were consistent with those given above and also emphasized timely physician disclosure of results to the patient, appropriate medical follow-up, and patient education. The National Institute of Occupational Safety and Health has outlined elements of an adequate screening program, with special reference to screening for asbestos-related disorders in currently employed miners, in a white paper produced in 2002 that has received little attention (160). The National Institute for Occupational Safety and Health recommended that such programs should be under the direction of a "qualified physician or other qualified health care provider" knowledgeable in the field and competent to administer it, and documented with written reports to workers and employers (the latter provision that would not necessarily be applicable to workers who had separated from the employer). However, the National Institute for Occupational Safety and Health did not address the issue of counseling in that document or clinical interventions to reduce future risk.

CONCLUSIONS

The diagnosis of nonmalignant asbestos-related disease rests, as it did in 1986, on the essential criteria described: a compatible structural lesion, evidence of exposure, and exclusion of other plausible conditions, with an additional requirement for impairment assessment if the other three criteria suggest asbestos-related disease (2). Each criterion may be satisfied by one of a number of findings or tests. The 2004 criteria are open to future testing modalities if and when they are validated. For example, HRCT has greatly increased the sensitivity of detection and has become a standard method of imaging. Evidence for exposure still rests on the occupational history, the demonstration of asbestos fibers or bodies, or pleural plaques. Impairment evaluation is largely unchanged from 1986 and remains an essential part of the clinical assessment. Potentially confounding conditions, such as idiopathic pulmonary fibrosis, are better understood and many, such as tuberculosis, are less common than in the past so that the clinical picture is less often confusing.

These criteria and the guidelines that support them are compatible with the Helsinki criteria, developed by an expert group in 1997, which represents substantial consensus worldwide (147). The guidelines supporting these criteria will undoubtedly change again in future, but the present guidelines should provide a reliable basis for clinical diagnosis for some years to come.

This statement was developed by an ad hoc subcommittee of the Scientific Assembly on Environmental and Occupational Health of the American Thoracic Society. Members of the committee are as follows:

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EXHIBIT D

BRAYTON+PURCELL LLP
ATTORNEYS AT LAW
222 RUSH LANDING ROAD
PO BOX 6169
NOVATO, CALIFORNIA 94948-6169
(415) 898-1555

1 I, Ysidro Limon, Sr., declare:

2 1. I am an adult and a plaintiff in this action. I am the asbestos-injured party.
3 I understand that I have been asked to submit this detailed declaration as to the effects of
4 the development of my asbestos-related injury and illness. I have personal knowledge of
5 the facts set forth in this declaration, and if called as a witness, I could and would
6 competently testify as to the truth of the matters set forth herein.

7 2. As a result of my diagnosis of asbestosis, doctors have informed me that I
8 have a substantially increased risk of getting mesothelioma, lung cancer, and other
9 cancers, and that therefore I need annual medical monitoring to detect any cancer early.

10 3. ~~As a result, I have serious concerns, distress, and fears relating to~~
11 developing, suffering from, and dying from cancer.

12 4. On the attached papers, I describe in detail the nature of my loss caused by
13 the defendant.

14 5. The attached is incorporated herein by this reference.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct.

17 Executed at Whittier, CA

18

19 DATE 7-1-, 2016.

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Signed: Ysidro Limon Sr.
Ysidro Limon, Sr.

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By this declaration, I, Ysidro Limon Sr., hereby provide details of my personal loss I have suffered because of my diagnosis of an asbestos-related illness:

I have had lesions detected on both lower parts of my lungs. Also, the pleura, the lining around my left lung, has been found to be thickening over time. Physically, I cannot walk for any extended amount of time. I become easily winded, and that affects where and what I can do with my grandchildren and great-grandchildren. On occasion I am forced to use a wheelchair in order to make certain events. I also have the stress of my unforeseen future. It is always in the back of mind that I may develop some cancers in the future. That causes me to think about the possibility of what I would miss when my grandchildren and great-grandchildren grow up. I also worry about becoming a burden on my children in the future. As far as x-rays are concerned, my primary hospital copies of my chest films that have been done.

EXHIBIT E

1 JAMES P. NEVIN, ESQ., S.B. #220816
2 BRAYTON PURCELL LLP
3 Attorneys at Law
4 222 Rush Landing Road
5 P.O. Box 6169
6 Novato, California 94948-6169
7 (415) 898-1555
8 Attorneys for Plaintiff

9
10
11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO

13
14 IN RE: COMPLEX ASBESTOS LITIGATION) ASBESTOS
15) CGC-84-828684
16) DECLARATION OF JAMES P. NEVIN
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I, James P. Nevin, declare:

1. I am an attorney at law duly licensed to practice in the State of California, and am a trial attorney and partner with the law firm of Brayton Purcell LLP, attorneys of record for plaintiff herein. I have reviewed the file in this matter and make this declaration on the basis of that review.

2. Brayton Purcell LLP and its predecessors in interest have been involved in asbestos-related disease litigation in Northern California since 1983. Over the last fifteen years, I have personally tried numerous asbestos cases to verdict, including with the diagnosis of mesothelioma, lung cancer, other cancers, and asbestosis, and my firm has negotiated many hundreds of thousands of settlements in individual cases involving all types of asbestos related disease.

3. The following are examples of jury assessments that were obtained either by our firm over the last thirty years, or other plaintiffs' firms, for asbestos-related cancer cases as well as asbestosis and asbestos-related pleural disease cases:

4/

ASBESTOS-RELATED CANCER

Robert and Linda Whalen v. John Crane Inc. (2014) Alameda Superior Court Case No. RG14711964. \$70,861,113.00 verdict for a plaintiff dying from mesothelioma and his wife. The jury assessed \$861,113 in economic damages, \$40 million in non-economic damages for Robert Whalen and \$30 Million dollars in Loss of Consortium Damages for Linda Whalen.

Melvin Desin v. Kaiser Gypsum (2012) San Francisco Superior Court Case No. 11-275881, personal injury. The jury assessed \$507,939 in economic damages, \$6,720,000 in non-economic damages, and \$6,000,000 in punitive damages, to plaintiff dying from mesothelioma:

Vincent Monaco v. Kaiser Gypsum (2012) Los Angeles Superior Court Case No. BC473091, personal injury. Jury assessed \$479,228.00 in economic damages, and \$1,500,000.00 in non-economic damages to plaintiff dying from mesothelioma.

12 Jack Casey et al. v. Kaiser Gypsum and FDCCA Inc., (2011) San Francisco Superior
13 Court Case No. 275517. Jury assessed \$1,018,421 in economic damages, \$15,000,000 in non-
14 economic damages, \$5,000,000 in loss of consortium damages, and \$20,000,000 in punitive
15 damages to plaintiff dying from mesothelioma and his wife.;

Vickie Warren v. Georgia Pacific; Hamilton Materials and Union Carbide Corporation,
(2010), Salt Lake City Third Judicial District Court Case No. 070911933: Jury assessed
\$1,400,000 in economic damages, and \$3,700,000 in non-economic damages to plaintiff dying
from peritoneal mesothelioma.;

Henry and Geraldine Barabin v. Asten Johnson and Seapa Dryer Fabrics (2009), United States District Court Western District of Washington, Seattle. Case No. C07-1454 RSL. Jury assessed \$700,000 in economic damages, \$8,000,000 in non-economic damages, and \$1,500,000 in loss of consortium to plaintiff dying from mesothelioma and his wife.;

Mickie Worthley et al v. Advocate Mines Limited, et al. (2009), San Francisco Superior Court Case No. 432308. Jury assessed \$877,750 in economic damages and \$2,500,000 in non-economic damages to the family of a decedent who died from mesothelioma.;

27 Jack Reynolds v. Hamilton Materials, Inc., (2009) San Francisco Superior Court Case
28 No.274747. Jury assessed \$468,759 in economic damages, and \$8,000,000 in non-economic

1 damages to plaintiff dying from mesothelioma.;

2 Charles Johnson v. Plant Insulation Company, et al. (2009) San Francisco Superior Court
3 Case No. 274919. Jury assessed \$435,500 in economic damages, and \$750,000 in non-
4 economic damages to plaintiff suffering from cancer of the pleura surrounding the lungs;

5 Woodard v. Alfa Laval Inc., et al. (2009) Los Angeles County Superior Court Case No.
6 BC387774, 2009 WL 330252. Jury assessed \$15 million in non-economic damages and \$1.925
7 million in economic damages to plaintiff dying from mesothelioma.;

8 Judy Oxford, et al. v. Foster Wheeler Corporation, et al. (2008) San Francisco Superior
9 Court Case No. 440328. Jury assessed \$2,039,519 in damages to the family of decedent who
10 died of mesothelioma.;

11 Ann Vanden Broek et al. v. Plant Insulation Company (2008) San Francisco Superior
12 Court Case No. 436690. Jury assessed \$2,610,720 in damages to the family of decedent who
13 died of lung cancer.;

14 Shahabi v. A.W. Chesterton, et al. (2008), Los Angeles Superior Court Case No.
15 BC379085, 2008 WL 3892284. Jury assessed \$13.2 million in non-economic damages and
16 \$1,676 in economic damages to plaintiff dying from mesothelioma.;

17 Davis v. American Standard, et al. (2007), Los Angeles Superior Court Case No.
18 BC367464, 2007 WL 4878046. Jury assessed \$35 million in non-economic damages and
19 \$100,000 in economic damages to plaintiff dying from mesothelioma.;

20 Merle Sandy v. Exxon Mobile Corporation (2006), San Francisco Superior Court Case
21 No. 324212. Jury assessed \$1,083,000 in damages to plaintiff suffering from asbestosis, asbestos
22 related pleural disease and asbestos related colon cancer.;

23 Charlton & Kay Clemmer et al. v. John Crane Inc. and Thorpe Insulation Company
24 (2006), San Francisco Superior Court Case No. 434434. Jury assessed over \$550,000 in
25 economic damages, \$1,100,000 in non-economic damages, and \$250,000 for loss of consortium
26 to plaintiff dying from mesothelioma and his wife.;

27 David Bakkie v. Union Carbide Corporation (2006), San Francisco Superior Court Case
28 No. 445300. Jury assessed \$3,223,450 in economic damages and \$15,300,000 in non-economic

1 damages to plaintiff dying from mesothelioma.;

2 Silvestro v. Kelly-Moore Paint Co., et al. (2006), Los Angeles County Superior Court
3 Case No. BC253974, 2006 WL 5721924. Jury assessed \$15.25 million to family of
4 mesothelioma victim; \$15 million in non-economic damages and \$250,000 in economic
5 damages.;

6 Anthony and Maxlyn Cadlo v. John Crane Inc. and Metalclad Insulation Corp. (2005),
7 San Francisco Superior Court Case No. 412325. Jury assessed \$8,673,704. in damages to
8 plaintiff dying from mesothelioma and his wife.;

9 Ralph Pierce v. Certainteed Corporation (2005), San Francisco Superior Court Case No.
10 408642. Jury assessed over \$3,400,000 to plaintiff suffering from asbestos-related colon cancer.;

11 Genaro & Delia Garcia v. Duro Dyne Corporation and Holmes and Narver, Inc. (2005),
12 San Francisco Superior Court Case No. 418098. Jury assessed \$855,619 in economic damages
13 and \$1,002,000 in non-economic damages, as well as \$300,000 for loss of consortium to plaintiff
14 dying from mesothelioma and his wife.;

15 Treggett v. Garlock Sealing Tech., et al. (2004), Los Angeles County Superior Court Case
16 No. BC307058, 2004 WL 3828256. Jury assessed \$36.6 million to a former nuclear submarine
17 worker suffering from lung cancer caused by asbestos exposure, \$18 million non-economic
18 damages, and \$688,496 in economic damages.;

19 Phillip Hoeffer v. Rockwell Automation (2003), San Francisco Superior Court Case No.
20 28817. Jury assessed \$2,999,543 to plaintiff dying from mesothelioma.;

21 Edward Jones v. John Crane Incorporated, et al. (2003), San Francisco Superior Court
22 Case No. 407782. Jury assessed over \$5,000,000 to plaintiff suffering from asbestos-related lung
23 cancer.;

24 Alfred Tedak v. Foster Wheeler, LLC (2002), San Francisco Superior Court Case No.
25 320621. Jury assessed \$22,700,000 in damages to plaintiff dying from mesothelioma, and
26 \$11,000,000 to his wife.;

27 Jarnes & Rose Efstratios v. John Crane Inc. (2001), Los Angeles County Superior Court
28 Case No. BC226519. Jury assessed \$385,000 in economic damages and \$3,580,000 in non-

1 economic damages to plaintiff dying from mesothelioma and \$500,000 to his wife for loss of
2 consortium.:

3 Ray Sundberg v. AC and S, Inc. et al. (2001), King County Superior Court, OR Case No.
4 21756-0. Jury assessed \$451,900 in economic damages, \$700,000 in non-economic damages, and
5 \$360,000 for loss of consortium to plaintiff suffering from asbestosis, asbestos-related non-
6 Hodgkin's lymphoma and asbestos-related colon cancer.;

7 Allen Vassen v. Exxon Mobile Corp. (2001), San Francisco Superior Court Case No.
8 312211. Jury assessed \$8,224,600 in damages to plaintiff dying of mesothelioma.;

9 Bernie and Mary Chavers v. Owens Illinois Inc. and Gatke Corporation (2000), San
10 Francisco Superior Court Case No. 300161. Jury assessed \$4,648,535 in damages to plaintiff
11 dying from mesothelioma and his wife.;

12 Sharon McKinney et al. v. California Portland Cement and Amcord (2000), San
13 Francisco Superior Court Case No. 983708. Jury assessed \$205,702 in economic damages and
14 \$2,750,000 in non-economic damages to family of decedent who died of asbestos related lung
15 cancer.;

16 Robert Bush v. Kaiser Gypsum (1999), Multnomah County Circuit Court, OR Case No.
17 03-01863. Jury assessed \$402,953 in economic damages and \$1,100,000 in non-economic
18 damages to plaintiff suffering from asbestos related lung disease and non-Hodgkin's lymphoma.;

19 Todd v. Asbestos Defendants (BJJC) (1999), San Francisco Superior Court Case No.
20 969158. Jury assessed \$129,618 in economic damages, \$3,000,000 in non-economic damages,
21 and \$1,500,000 in loss of consortium to plaintiff suffering from asbestos-related lung cancer and
22 his wife.;

23 Billy Armstrong v. Raymark Industries and Pittsburg Corning Corporation (1998), San
24 Francisco Superior Court Case No. 985289. Jury assessed \$867,646 in economic damages and
25 \$3,500,000 in non-economic damages to plaintiff dying from mesothelioma.;

26 Daniel and Lois Wilson v. John Crane, Inc. (1998), San Francisco Superior Court Case
27 No. 991085. Jury assessed \$591,091 in economic damages, \$3,000,000 in non-economic
28 damages to plaintiff dying from mesothelioma and \$1,000,000 to his wife for loss of

1 consortium.;

2 Therese Petri v. Mohasco Corporation (1998), San Francisco Superior Court Case No.
3 961525. Jury assessed \$995,432 in damages to widow of decedent who died from
4 mesothelioma.;

5 Arthur Mitchell v. Asbestos Corporation Ltd. (1996), San Francisco Superior Court Case
6 No. 975884. Jury assessed \$953,112 in damages to plaintiff dying of mesothelioma.;

7 Mary Wiggins et al. v. Owens-Corning Fiberglass (1995), San Francisco Superior Court
8 Case No. 954274. Jury assessed \$3,876,000 in compensatory damages and \$12,500,000 in
9 punitive damages to family of decedent who died of mesothelioma.

10 **ASBESTOSIS AND ASBESTOS-RELATED
PLEURAL DISEASE CASES**

11 William Simeic and Janet Simeic vs. Certainteed Corporation, et al. (2016), San
12 Francisco Superior Court Case No. CGC-15-276438. Jury assessed \$1,027,677 in total damages:
13 \$377,677 for economic damages, \$325,000 for Mr. Simeic's non-economic damages, and
14 \$325,000 to Mrs. Simeic for Loss of Consortium. At the time of trial, Mr. Simeic was a 77 year-
15 old male suffering from asbestosis and asbestos-related pleural disease.

16 Tommy Dye et al., v. Asbestos Corporation Ltd. et al. (2009), San Francisco Superior
17 Court Case No. 474606. Jury assessed \$209,000 in total damages. At the time of trial, plaintiff
18 was a 72 year-old male suffering from asbestosis and asbestos-related pleural disease.

19 Aline Ivance, et al. v. Rich-Tex, Inc. (2007) San Francisco Superior Court Case No.
20 419435. Jury assessed over \$868,000 to the family of decedent who died of asbestosis and
21 asbestos-related pleural disease.

22 Joseph Garza and Mary Garza v. Asbestos Corporation Limited, (2006), San Francisco
23 Superior Court Case No. 438144. Verdict of \$1,578,994, non economic damages
24 totaling \$660,000. Mary Garza was awarded \$400,000 for loss of consortium. At the time of
25 trial, Plaintiff was a 75 year old male suffering from asbestosis.

26 Harold Phelps and Neva Phelps v. Hamilton Materials, Inc. (2005), San Francisco
27 Superior Court Case No. 433734. Verdict of \$1,592,442.39, non economic damages totaling
28 \$1,150,000, with an additional \$1,250,000 awarded to Neva Phelps for loss of consortium. At

1 the time of trial, Plaintiff was a 77 year old male suffering from terminal asbestosis.

2 Geronia Quarles v. Advocate Mines, Ltd., (2005), San Francisco Superior Court Case No.
3 409170. Verdict of \$1,250,000, non-economic damages totaling \$750,000. At the time of trial,
4 Plaintiff was a 69 year old male suffering from asbestosis.

5 Walter Medley v. American Laundry Machinery, Inc., (2003), San Francisco Superior
6 Court Case No. 313920. Verdict of \$1,108,600, non-economic damages totaling \$1,000,000. At
7 the time of trial, Plaintiff was a 76 year old male suffering from asbestosis.

8 Guadalupe and Amalia Laguna v. Calaveras Asbestos, Ltd., (2001), San Francisco
9 Superior Court Case No. 318078. Verdict of \$2,303,751.58, non-economic damages totaling
10 \$900,000. Amalia Laguna was awarded \$550,000 for loss of consortium. At the time of trial,
11 Plaintiff was a 60 year old male suffering from asbestosis.

12 Cecil Martin v. Plant Maintenance, Inc., (2000), San Francisco Superior Court Case No.
13 305598. Verdict of \$371,050, non-economic damages totaling \$125,000. At the time of trial,
14 Plaintiff was an 84 year old male suffering from asbestosis.

15 Eleven cases with a diagnosis of asbestosis and asbestos-related pleural disease
16 consolidated for trial in San Francisco County in May, 1998. A verdict was returned for all
17 eleven cases totaling \$3,203,800. The average verdict was \$291,254.54.

18 Reginald Bacher v. Abex Corporation, et al., (1998), San Francisco Superior Court Case
19 No. 968771. Verdict of \$200,000.00, non-economic damages of \$134,000.00. At the time of
20 trial, Plaintiff was an 80 year old male suffering from asbestosis.

21 James Perry v. Abex Corporation, et al., (1998), San Francisco Superior Court Case No.
22 968329. Verdict of \$250,000.00, non-economic damages of \$170,000.00. At the time of trial,
23 Plaintiff was a 67 year old male suffering from asbestosis.

24 Frank Sykora v. Abex Corporation, et al., (1998), San Francisco Superior Court Case No.
25 969099. Verdict of \$165,000.00, non-economic damages of \$110,000.00. At the time of trial,
26 Plaintiff was an 82 year old male suffering from asbestosis.

27 Lee Marsigli v. Abex Corporation, et al., (1998), San Francisco Superior Court Case No.
28 981861. Verdict of \$145,000.00. At the time of trial, Plaintiff was a 77 year old male suffering

1 from asbestos.

2 Don Denson v. Abex Corporation, et al. (1998), San Francisco Superior Court Case No.
3 958255. Verdict of \$386,850.00, non-economic damages of \$150,000.00. At the time of trial,
4 Plaintiff was a 67 year old male suffering from asbestos.

5 Robert Doran v. Abex Corporation, et al. (1998), San Francisco Superior Court Case No.
6 958256. Verdict of \$797,938.00, non-economic damages of \$600,000.00. At the time of trial,
7 Plaintiff was an 81 year old male suffering from asbestos.

8 Maurice Geerde v. Abex Corporation, et al. (1998), San Francisco Superior Court Case
9 No. 960026. Verdict of \$459,475.00, non-economic damages of \$150,000.00. At the time of
10 trial, Plaintiff was a 61 year old male suffering from asbestos.

11 Deward Cullum, Jr. v. Abex Corporation, et al. (1998), San Francisco Superior Court
12 Case No. 960496. Verdict of \$446,475.00, non-economic damages of \$175,000.00. At the time
13 of trial, Plaintiff was a 64 year old male suffering from asbestos.

14 Johnnie Hall v. Abex Corporation, et al. (1998), San Francisco Superior Court Case No.
15 958853. Verdict of \$569,725.00, non-economic damages of \$300,000.00. At the time of trial,
16 Plaintiff was a 70 year old male suffering from asbestos.

17 William Slaughterback v. Abex Corporation, et al. (1998), San Francisco Superior Court
18 Case No. 960303. Verdict of \$725,000.00, non-economic damages of \$450,000.00. At the time
19 of trial, Plaintiff was a 66 year old male suffering from asbestos.

20 John Fitzgerald v. Asbestos Defendants (BHC) (1998), San Francisco Superior Court
21 Case No. 986309. Verdict of \$690,000.00, non-economic damages of \$500,000.00. At the time
22 of trial, Plaintiff was an 81 year old male suffering from asbestos.

23 Cleon Harvey v. Abex Corporation, et al. (1998) San Francisco Superior Court Case No.
24 961816. Verdict of \$685,000.00, non-economic damages of \$375,000.00. At the time of trial,
25 Plaintiff was a 69 year old male suffering from asbestos.

26 Gerald August, et al. v. Raymark Industries, Inc. (1998) Solano Superior Court. Personal
27 Injury / Wrongful Death, Asbestosis. Verdict excess of \$6,500,000.

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1 Joe Hopson v. Abex Corporation, et al. (1997), San Francisco Superior Court Case No.
2 969980. Verdict of \$116,600.00, non-economic damages of \$92,000.00. At the time of trial,
3 plaintiff was a 68 year old male suffering from asbestososis.

4 Billy Huntley v. Abex Corporation, et al. (1997), San Francisco Superior Court Case No.
5 970727. Verdict of \$106,625.00, non-economic damages of \$80,000.00. At the time of trial,
6 Plaintiff was a 72 year old male suffering from asbestososis.

7 Kenneth Kesterson v. Abex Corporation, et al. (1997), San Francisco
8 Superior Court Case No. 973152. Verdict of \$112,300.00, non-economic damages of
9 \$65,000.00. At the time of trial, Plaintiff was an 84 year old male suffering from asbestososis.

10 Delbert Davis v. Abex Corporation, et al. (1997), San Francisco Superior Court Case No.
11 966342. Verdict of \$233,000.00, non-economic damages of \$125,000.00. At the time of trial,
12 Plaintiff was a 69 year old male suffering from asbestososis.

13 Cordis Jones v. Abex Corporation, et al. (1997), San Francisco Superior Court Case No.
14 966623. Verdict of \$165,000.00, non-economic damages of \$100,000.00. At the time of trial,
15 Plaintiff was a 73 year old male suffering from asbestososis.

16 Robert Mori v. Abex Corporation, et al. (1997), San Francisco Superior Court Case No.
17 966543. Verdict of \$140,000.00, non-economic damages of \$100,000.00. At the time of trial,
18 Plaintiff was a 73 year old male suffering from asbestososis.

19 Bosnic v. ACandS, Inc., et al. (1997), San Francisco Superior Court Case No. 955383.
20 Verdict of \$300,000.00.

21 Robert Walker v. CCR, et al. (1997), San Francisco Superior Court Case No. 958929.
22 Verdict of \$225,000.00.

23 Richard Borges v. Abex Corporation, et al. (1997), San Francisco Superior Court Case
24 No. 970725. Verdict of \$106,000.00, non-economic damages of \$81,600.00. At the time of trial,
25 Plaintiff was a 63 year old male suffering from asbestososis.

26 Willmor Brown v. Abex Corporation, et al. (1997), San Francisco Superior Court Case
27 No. 971294. Verdict of \$111,250.00, non-economic damages of \$80,000.00. At the time of trial,
28 Plaintiff was a 72 year old male suffering from asbestososis.

1 Daniel Carver v. Abex Corporation, et al. (1997), San Francisco Superior Court Case No.
2 970406. Verdict of \$79,475.00, non-economic damages of \$55,000.00. At the time of trial,
3 plaintiff was a 78 year old male suffering from asbestosis.

4 Dan Cirigliano v. Abex Corporation, et al. (1997), San Francisco Superior Court Case
5 No. 970371. Verdict of \$129,650.00, non-economic damages of \$80,000.00. At the time of trial,
6 Plaintiff was an 82 year old male suffering from asbestosis.

7 Kenneth Copp v. Abex Corporation, et al. (1997), San Francisco Superior Court Case No.
8 970827. Verdict of \$94,725.00, non-economic damages of \$70,000.00. At the time of trial,
9 Plaintiff was a 72 year old male suffering from asbestosis.

10 James Moody v. Abex Corporation, et al. (1996), San Francisco Superior Court Case No.
11 964982. Verdict of \$150,000, non-economic damages totaling \$110,000. At the time of trial,
12 Plaintiff was a 60 year old male suffering from asbestosis.

13 Gerald Grahn v. Abex Corporation, et al. (1996), San Francisco Superior Court Case No.
14 922678. Verdict of \$1,074,420. At the time of trial, Plaintiff was a 51 year old male suffering
15 from asbestosis.

16 Edward Phillips v. Abex Corporation, et al. (1995), San Francisco Superior Court Case
17 No. 927408. Verdict of \$990,000, non-economic damages \$625,000. At the time of trial,
18 Plaintiff was an 83 year old male suffering from asbestosis.

19 George Lemire v. Kaiser Gypsum Company, Inc. (1994), San Francisco Superior Court
20 Case No. 948020. Verdict of \$380,000, non-economic damages totaling
21 \$250,000. At the time of trial, Plaintiff was a 53 year old male suffering from asbestosis.

22 Henry Lattman v. Kaiser Gypsum Company, Inc. (1994), San Francisco Superior Court
23 Case No. 950435. Verdict of \$125,000. At the time of trial, Plaintiff was a 63 year old male
24 suffering from asbestosis.

25 Fifteen cases with a disputed diagnosis of early asbestosis consolidated for trial in Solano
26 County in 1991. Average verdict returned of \$140,000, high verdict of \$375,000. All cases were
27 disputed asbestosis and pleural plaques. The highest verdict was for a 63 year old male.

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1 Consolidated group of 40 arbitrations in Solano County in 1991. Award of
2 approximately \$150,000 for medical monitoring and non-economic damages. Each of the cases
3 were individuals with disputed asbestosis and pleural disease.

4 Miles Harrison v. Celotex Corporation, et al. (1989), San Francisco Superior Court Case
5 No. 887610. Verdict of \$950,000. At the time of trial, Plaintiff was a 71 year old male suffering
6 from asbestosis.

7 Vartkes Kilitzian v. Abex Corporation, et al. (1988), San Francisco Superior Court Case
8 No. 880407. Verdict of \$291,910, non-economic damages of approximately \$270,000. At the
9 time of trial, Plaintiff was an 84 year old male suffering from asbestosis.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct.

12 Executed on April 6, 2017, at Novato, California.

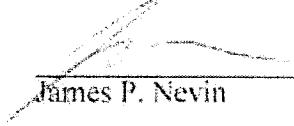
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EXHIBIT F

WORK AND EXPOSURE HISTORY

Defendant CARROLL DUNCAN & CO.
Defendant C.F. BOLSTER COMPANY
Defendant E.S. BROWNING CO.
Defendant K & R AUTOMOTIVE

Injured Plaintiff: YSIDRO LIMON

Plaintiff seeks Default Judgment against the above-referenced defendants. Attached hereto is the Exhibit "A", showing the extended work and exposure history for Plaintiff. Plaintiff provides the attached as a summary of the relevant exposure summary only for context for the Court, but such evidence is not required at all. Plaintiff is not required to prove liability, because through the entry of default, Defendants admits all the material allegations in the operative complaint. Defendants have each failed to appear despite being properly served with the Summons, Complaint and Statements of Damages. Defendants have each deliberately waived the right to their day in court. By sufficient evidence, Plaintiff has shown Defendants are each liable and therefore Plaintiff should be granted a default judgments. The Court must enter judgments against the subject defendants even if no presentation as to liability have been provided whatsoever.

As set forth in the extended "Exhibit A" work history, attached hereto, this work and exposure history includes locations and dates where these defaulted defendants caused Plaintiff to be exposed to asbestos.

As to Defendant **CARROLL DUNCAN & CO.**: This defendant was a plastering contractor in Southern California between the 1930s and 1970s. Their employees mixed, applied, disturbed and cleaned-up asbestos containing plaster, stucco and fireproofing in the workers' presence or prior to arrival.

As to Defendant **C.F. BOLSTER COMPANY**: This defendant a plastering contractor in Southern California between the 1920 and 1985. There employees mixed, applied, disturbed and cleaned-up asbestos containing plaster, stucco, acoustical ceilings and fireproofing in the worker's presence or prior to arrival.

As to Defendant **E.S. BROWNING CO.**: This entity was a building contactor.

The locations where the exposure caused by CARROLL DUNCAN & CO., C.F. BOLSTER COMPANY, and E.S. BROWNING CO. occurred is within the attached work and exposure history ("Exhibit A"). As one example of the multiple locations where this exposure occurred includes, but is not limited to the following:

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<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Cosco Fire Protection Inc 16306 S Broadway Gardena, CA		Sprinkler Fitter	1/1970-12/1970 (1,926 hrs); 1/1971-12/1971 (1,915 hrs)
LKA: Zurn Industries Inc Erie, PA			4/1971-6/1971; 1/1972-3/1972 (609 hrs)
	Arco Plaza (Twin Towers/City National Plaza), Los Angeles, CA		(2 weeks)

Job Duties: Plaintiff installed fire sprinklers in a new skyscraper complex under construction. Plaintiff worked in close proximity to insulators applying OWENS CORNING FIBERGLAS insulating cement over pipes and equipment. Plaintiff worked in close proximity to drywallers applying and sanding GOLD BOND (ASBESTOS CLAIMS MANAGEMENT CORPORATION) joint compound. Plaintiff recalls cement finishers mixing and applying RIVERSIDE GUN CEMENT onto the exterior and interior of the buildings. Plaintiff recalls sacks of RIVERSIDE GUN CEMENT lying around the jobsite. Plaintiff recalls working in close proximity to fireproofers spraying MONOKOTE (W.R. GRACE & CO.) fireproofing onto steel beams. Plaintiff currently contends he was exposed to asbestos during this employment.

As to Defendant **K & R AUTOMOTIVE**: Plaintiff recalls purchasing BENDIX (HONEYWELL INTERNATIONAL) asbestos-containing brakes from K & R AUTOMOTIVE, East Los Angeles, California.

The locations where this occurred is within the attached work and exposure history ("Exhibit A"). As one example of the multiple locations where this exposure occurred includes, but is not limited to the following:

From approximately 1956 up until the mid 1990s, plaintiff removed and replaced the brakes on a variety of vehicles. Plaintiff recalls removing the original equipment manufacturer's brakes from a 1969 OLDSMOBILE (GENERAL MOTORS CORPORATION) and a 1983 OLDSMOBILE (GENERAL MOTORS CORPORATION). Plaintiff removed and replaced the brakes on other vehicles, including a 1949 Ford, purchased in 1956; a 1974 Ford Ltd.; a 1957 Chevrolet pick-up truck; and a 1954 Chevrolet purchased around 1956. Plaintiff also helped his father remove and replace the brakes in a 1939 Chevrolet and a 1951 Chevrolet. Plaintiff used a paint brush to clean the residue from the backing plates where the brakes were mounted. Plaintiff recalls purchasing BENDIX (HONEYWELL INTERNATIONAL) brakes from K & R AUTOMOTIVE, East Los Angeles, California. Plaintiff recalls purchasing RAYBESTOS

(RAYMARK INDUSTRIES, INC.) disc brakes for installation in the 1983 Oldsmobile. Plaintiff currently contends he was exposed to asbestos as a result of this automotive work.

The extended work history is attached hereto.

EXTENDED WORK AND EXPOSURE HISTORY

Ysidro Jimon Sr.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Marjon Company 100 W Tenth St Wilmington, DE	Unknown	Unknown	7/1955-9/1955; 4/1956-9/1956; 7/1957-9/1957

Job Duties: Plaintiff does not recall the specifics of this employment. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Halopoff & Kajpakoff Rattan Specialties 8343 E Loch Lomond Dr Pico Rivera, CA	Pico Rivera, CA	Sander	10/1956-3/1957

Job Duties: Plaintiff recalled that he sanded rattan furniture by hand in a workshop. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Automatic Sprinkler Corp of America Jones & Brittain St Youngstown, OH	American Sprinkler Montebello, CA	Apprentice Sprinkler Fitter	10/1957-12/1957

Job Duties: Plaintiff worked in a workshop assembling hangers for sprinklers. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Grimmell Co of Pacific 260 W Exchange St Providence, RI	American Can Company, Huntington Park, CA	Sprinkler Fitter	1957-1958 (4-8 weeks) 10/1957-12/1957

Job Duties: Plaintiff installed a sprinkler system in a wood-frame building under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Lohman Bros Contracting Plumbing and Heating 300 E Coast Hwy Newport Beach, CA	Young's Market, Alameda and 5th, Los Angeles, CA	Sprinkler Fitter	10/1957-12/1957; 1/1959-3/1960; 7/1960-9/1960

Job Duties: Plaintiff recalls installing a sprinkler system while Young's Market was being constructed in Los Angeles, California. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Church & Mendoza Automatic Fire Protection Co 2525 E 55th St Los Angeles, CA	Unknown locations Los Angeles, CA	Sprinkler Fitter	10/1957-12/1957; 1/1962-6/1963; 1/1964-6/1964 Los Angeles, CA

Job Duties: Plaintiff worked on existing and new construction projects throughout Los Angeles. Plaintiff recalled construction was wood frame or solid cement pours. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Grimmell Corporation of Pacific 260 W Exchange St Providence, RI	Santa Ana Fashion Mall, Santa Ana, CA	Sprinkler Fitter	10/1957-12/1957 (2 months)

Job Duties: Plaintiff installed a sprinkler system in a new shopping mall under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Mehring & Hansen Co 6615 Eighth Ave Los Angeles, CA	Santa Ana Fashion Mall Santa Ana, CA	Sprinkler Fitter	1/1958-3/1958

Job Duties: Plaintiff recalls that he installed a sprinkler system in a new shopping mall under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
JM Carden Sprinkler Co 2909 Fletcher Dr Los Angeles, CA	Unknown	Sprinkler Fitter	4/1958-6/1958

Job Duties: Plaintiff does not recall the specifics of this employment. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Stonebro Corporation 617 Isis Ave Inglewood, CA	Various Warehouses, Los Angeles area, CA	Sprinkler Fitter	4/1958-3/1959; 7/1959-9/1959; 1/1960-12/1961
Los Angeles County Schools, Los Angeles, CA			

Job Duties: Plaintiff installed fire sprinklers in various buildings under construction or renovation. At Los Angeles County schools, plaintiff recalls using a utility knife or hole saw to cut into asbestos ceiling tiles prior to installing pipe supports. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Security Fire Protection Ika Stonebro Corporation	Long Beach Memorial Hospital, Long Beach, CA	Sprinkler Fitter	1958-1960 (1 month)

Job Duties: Plaintiff installed fire sprinklers at a hospital under construction. Plaintiff recalls working in the boiler room, where he worked in close proximity to THORPE INSULATION (THORPE INSULATION COMPANY) insulators cutting and applying half-round insulation to fit onto hot-water lines. Plaintiff recalls insulators mixing and applying asbestos insulating cement over the half-round insulation, which created a lot of dust. Plaintiff recalls walking over insulating debris which had fallen onto the floor. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Security Fire Protection Ika Stonebro Corporation	Discount Store, Pico Rivera, CA	Sprinkler Fitter	1958-1961 (2 months)
	Security Fire Protection Offices, Inglewood, CA		1961 (6 months)

Job Duties: Plaintiff installed a fire sprinkler system at a building under construction. Plaintiff recalls cutting and installing an asbestos-cement water main. For six months, plaintiff worked as a designer in the offices of Security Fire Protection. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Stonebro Corporation 617 S Isis Ave Inglewood, CA	Various buildings, Los Angeles, CA and surrounding area	Sprinkler Fitter	1/1960-3/1962
Stonebro Office, Wilmington, CA			1961 (6 months)

Job Duties: Plaintiff installed fire sprinkler systems in buildings under construction in Los Angeles, California, and the surrounding area. Plaintiff worked in close proximity to workers installing asbestos ceiling tile, and sanding asbestos-containing KAISER GYPSUM and GOLD BOND joint compounds. For about 6 months, plaintiff worked as a designer in the offices of Stonebro Corporation. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Automatic Fire Protection Co 2325 E 55 St Los Angeles, CA	New Construction, Los Angeles, CA and surrounding area	Sprinkler Fitter	1/1962-6/1964

Job Duties: Plaintiff installed fire sprinkler systems in buildings under construction in Los Angeles, California, and the surrounding area. Plaintiff worked in close proximity to workers installing asbestos ceiling tile, and asbestos-containing joint compounds and insulation. Plaintiff

recalled Church and Mendoza, first names unknown, owners of Automatic Fire Protection. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Automatic Sprinklers of Pacific Inc 4604 Pinehurst Dr So Austin, TX	Broadway Department Store, Los Angeles, CA	Sprinkler Fitter	7/1963-12/1963

Job Duties: Plaintiff installed a fire sprinkler system in a Broadway department store. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Orvin Engineering Corporation 796 E Harrison St Corona, CA	Unknown Discount Store, North ridge, CA	Sprinkler Fitter	4/1964-8/1964 (584 hrs)

Job Duties: Plaintiff installed a sprinkler system inside a discount store under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Atlas Automatic Sprinkler Co 1311 Glendale Blvd Los Angeles, CA	Public Schools, Los Angeles and Orange County, CA	Sprinkler Fitter	8/1964-7/1965 (1,882 hrs)

Job Duties: Plaintiff installed sprinkler systems in schools under construction in Los Angeles and Orange counties, California. Plaintiff worked in close proximity to workers applying asbestos insulation to hot waterlines. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Cosco Fire Protection Inc	Various Locations	Sprinkler Fitter	7/1965-12/1965;

16306 S Broadway Gardena, CA	1/1966-12/1966 (1,656.25 hrs); 1/1967-1/1969 1/1970-12/1970 (1,926 hrs); 1/1971-12/1971 (1,915 hrs)
LKA: Zum Industries Inc Erie, PA	4/1971-6/1971; 1/1972-3/1972 (609 hrs)

Job Duties: Plaintiff installed sprinkler pipe in various buildings. Plaintiff cut and milled JOHNS-MANVILLE (MANVILLE TRUST) asbestos-cement pipe, which created a lot of dust. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Cosco Fire Protection Inc 16306 S Broadway Gardena, CA	Sprinkler Fitter	7/1965-12/1965; 1/1966-12/1966 (1,656.25 hrs); 1/1967-12/1969; 1/1970-12/1970 (1,926 hrs); 1/1971-12/1971 (1,915 hrs)	

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
LKA: Zum Industries Inc Erie, PA	Stonewood Shopping Center Downey, CA	4/1971-6/1971; 1/1972-3/1972 (609 hrs) (6 months)	
Wilmington Harbor. Wilmington, CA	Wilmington Harbor. Wilmington, CA	Late 1960s-Early 1970s (2 months)	

Job Duties: Plaintiff worked in a parking lot used for unloading new cars from ships. Plaintiff cut and milled over one mile of CERTAINTEED (CERTAINTEED CORPORATION) asbestos-cement pipe for use as fire mains. Plaintiff recalls Cosco purchasing the asbestos-cement pipe from FAMILIAN PIPE & SUPPLY (FAMILIAN CORPORATION). Plaintiff recalls creating a lot of dust while performing this work. Plaintiff currently contends he was exposed to asbestos

during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>	<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Cosen Fire Protection Inc 16306 S Broadway Gardena, CA		Sprinkler Fitter	7/1965-12/1965; 1/1966-12/1966 (1,636.25 hrs); 1/1967-12/1969; 1/1970-12/1970 (1,926 hrs); 1/1971-12/1971 (1,915 hrs)	Grinnell Co of Pacific 260 W Exchange St Providence, RI	Glendale Galleria Glendale, CA	Sprinkler Fitter	4/1968-9/1968
LKA; Zumt Industries Inc Erie, PA			4/1971-6/1971; 1/1972-3/1972 (609 hrs)	LKA; Grinnell Corporation 1 Town Center Rd Boca Raton, FL			4/1972-12/1972 (1,370 hrs); 1/1973-12/1973 (1,963 hrs); 1/1974-12/1974 (1,868 hrs); 1/1975-12/1975 (1,653 hrs); 1/1976-12/1976 (1,693 hrs); 1/1977-12/1977 (1,698 hrs); 1/1978-12/1978 (1,475 hrs); 1/1979-12/1979 (2,075 hrs); 1/1980-12/1980 (1,954 hrs); 1/1981-12/1981 (1,866 hrs); 1/1982-12/1982 (1,959 hrs); 1/1983-12/1983 (1,810 hrs); 1/1984-12/1984 (1,827 hrs); 2/1985-8/1985 (1,187 hrs)
LKA; Cosco Fire Protection Inc 501 W Southern Ave Orange, CA			1993-1994	University of California (UCLA), Los Angeles, CA			
			(1 week)				
Job Duties: Plaintiff installed sprinkler systems in various concrete buildings at the university. Plaintiff is currently unaware if he was exposed to asbestos during this employment.							
<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>				
Cosen Fire Protection Inc 16306 S Broadway Gardena, CA	Montclair Plaza Mall, Montclair, CA	Sprinkler Fitter	1/1966-12/1966 (1,636.25 hrs); 1/1967-12/1969; (6 weeks)	Pepperdine University, Malibu, CA	University of California (UCLA), Los Angeles, CA		
Job Duties: Plaintiff installed sprinkler systems inside a new mall under construction. Plaintiff recalls working in close proximity to drywallers and insulators. Plaintiff worked in close proximity to fireproofers spraying MONOKOTE (W.R. GRACE & CO) fireproofing onto steel beams. Plaintiff currently contends he was exposed to asbestos during this employment.							
Job Duties: At Pepperdine University, plaintiff cut through ceiling tiles to correct the installation							

of the sprinkler system. Plaintiff worked in close proximity to fireproofers spraying MONOKOTE (W.R. GRACE & CO.) fireproofing onto steel beams. At Glendale Galleria plaintiff worked in close proximity to sheet metal workers installing flexible duct connectors for HVAC units. Plaintiff worked in close proximity to fireproofers spraying MONOKOTE (W.R. GRACE & CO.) fireproofing onto steel beams. At UCLA, plaintiff installed sprinkler systems in various concrete buildings on campus. Plaintiff recalls fireproofers installing asbestos-containing fireproofing onto steel beams. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Cosco Fire Protection Inc 16306 S Broadway Gardena, CA	Sprinkler Fitter	1/1970-12/1970 (1,926 hrs); 1/1971-12/1971 (1,915 hrs)	
LKA: Zurn Industries Inc Eric, PA		4/1971-6/1971; 1/1972-3/1972 (609 hrs)	
Schubert Theater, Century City, CA			

Job Duties: Plaintiff installed sprinklers in a new theater under construction. Plaintiff recalls working in close proximity to drywallers applying and sanding asbestos-containing joint compounds. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Cosco Fire Protection Inc 16306 S Broadway Gardena, CA	Sprinkler Fitter	1/1970-12/1970 (1,926 hrs); 1/1971-12/1971 (1,915 hrs)	
LKA: Zurn Industries Inc Eric, PA		4/1971-6/1971; 1/1972-3/1972 (609 hrs)	
Arco Plaza (Twin)			

9

Towers/City National Plaza, Los Angeles, CA

Job Duties: Plaintiff installed fire sprinklers in a new skyscraper complex under construction. Plaintiff worked in close proximity to insulators applying OWENS CORNING FIBERGLAS insulating cement over pipes and equipment. Plaintiff worked in close proximity to drywallers applying and sanding GOLD BOND (ASBESTOS CLAIMS MANAGEMENT CORPORATION) joint compound. Plaintiff recalls cement finishers mixing and applying RIVERSIDE GUN CEMENT onto the exterior and interior of the buildings. Plaintiff recalls sacks of RIVERSIDE GUN CEMENT lying around the jobsite. Plaintiff recalls working in close proximity to fireproofers spraying MONOKOTE (W.R. GRACE & CO.) fireproofing onto steel beams. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Cosco Fire Protection Inc 16306 S Broadway Gardena, CA	Sprinkler Fitter	1/1970-12/1970 (1,926 hrs); 1/1971-12/1971 (1,915 hrs)	
LKA: Zurn Industries Inc Eric, PA		4/1971-6/1971; 1/1972-3/1972 (609 hrs)	
Alcoa Towers, Los Angeles, CA			

Job Duties: Plaintiff worked in a parking garage. Plaintiff drilled anchors into concrete for the installation of sprinkler pipe. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Cosco Fire Protection Inc 16306 S Broadway Gardena, CA	Sprinkler Fitter	1/1970-12/1970 (1,926 hrs); 1/1971-12/1971 (1,915 hrs)	
LKA: Zurn Industries Inc Eric, PA		4/1971-6/1971; 1/1972-3/1972 (609 hrs)	

Century Plaza Tower One
(2029 Century Park East),

10

Century City, Los Angeles,
CA

Century Plaza Tower Two
(2049 Century Park East),
Century City, Los Angeles,
CA

Job Duties: Plaintiff worked in the main underground concrete parking facility for the two towers. Plaintiff drilled anchors into concrete for the installation of sprinkler pipe. Plaintiff worked in close proximity to fireproofers spraying MONOKOTE (W.R. GRACE & CO.) fireproofing onto steel beams. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Cosco Fire Protection Inc 16306 S Broadway Gardena, CA		Sprinkler Fitter	1/1970-12/1970 (1,926 hrs); 1/1971-12/1971 (1,915 hrs)
LKA: Zum Industries Inc Erie, PA			4/1971-6/1971; 1/1972-6/1972
Zody's Department Store. Norwalk; West Covina; and Anaheim, CA			Early 1970s (3-4 weeks for each store)
Gencor, Covina, CA			Early 1970s (3-4 weeks)
Gencor, Los Angeles area, CA			Early 1970s (3-4 weeks)

Job Duties: Plaintiff installed fire sprinklers in the wood frames of concrete tilt-up department stores being constructed. Plaintiff worked in close proximity to drywallers mixing, applying and sanding asbestos-containing joint and taping compounds; and roofers applying asbestos roofing paper, felt and shingle materials. Plaintiff worked in close proximity to electricians, carpenters and plumbers. Plaintiff recalled foreman and installer Tom Sears. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
ITT Fluid Products Corporation 33 Centerville Rd Lancaster, PA	Unknown	Sprinkler Fitter	4/1972-6/1972

Job Duties: Plaintiff currently does not recall the details of this employment. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Grinnell Corporation 1 Town Center Rd Boca Raton, FL	Smith Tool, Costa Mesa, CA	Sprinkler Fitter	1/1973-12/1973 (1,963 hrs); 1/1974-12/1974 (1,868 hrs); 1/1975-12/1975 (1,653 hrs); 1/1976-12/1976 (1,693 hrs); 1/1977-12/1977 (1,698 hrs); 1/1978-12/1978 (1,475 hrs); 1/1979-12/1979 (2,075 hrs)

Job Duties: Plaintiff cut and milled CERTAINTEED (CERTAINTEED CORPORATION) asbestos-cement pipe for use as fire mains. While performing this work, plaintiff recalls creating a lot of fine dust which covered his clothing. Plaintiff recalls more than a mile of asbestos-cement pipe was delivered to the jobsite from the manufacturer in 20 semi-trucks. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Grinnell Corporation 1 Town Center Rd	New Otani Hotel, Los Angeles, CA	Sprinkler Fitter	1/1977-12/1977 (1,698 hrs);

Boca Raton, FL		1/1978-12/1978 (1,475 hrs); 1/1979-12/1979 (2,075 hrs) (Several days)	Job Duties: Plaintiff installed sprinkler systems for new construction at a small manufacturing plant. Plaintiff is currently unaware if he was exposed to asbestos during this employment.
Job Duties: Plaintiff worked on the installation of fire sprinklers in a new hotel under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.			
Employer	Location of Exposure	Job Title	Exposure Dates
Grinnell Corporation 1 Town Center Rd Boca Raton, FL	Various Convalescent Homes, Los Angeles, CA	Sprinkler Fitter	1/1977-12/1977 (1,698 hrs); 1/1978-12/1978 (1,475 hrs); 1/1979-12/1979 (2,075 hrs)
Job Duties: Plaintiff recalls working in the attic spaces of convalescent homes, which contained blown-in insulation. Plaintiff cut through asbestos ceiling tiles to extend sprinkler heads below ceilings. Plaintiff worked in close proximity to insulators. Plaintiff currently contends he was exposed to asbestos during this employment			
Employer	Location of Exposure	Job Title	Exposure Dates
Grinnell Corporation 1 Town Center Rd Boca Raton, FL	Celotex, Los Angeles, CA	Sprinkler Fitter	1/1978-12/1978 (1,475 hrs); 1/1979-12/1979 (2,075 hrs); 1/1980-12/1980 (1,866 hrs); 1/1981-12/1981 (1,954 hrs); 1/1982-12/1982 (1,959 hrs); 1/1983-12/1983 (1,810 hrs) (1 week)
Job Duties: At American Airlines, plaintiff recalls inspecting control valves every three months inside a repair hangar. Plaintiff recalls seeing exposed fireproofing on steel beams. Plaintiff currently contends he was exposed to asbestos during this employment.			
Employer	Location of Exposure	Job Title	Exposure Dates
CF Braun Constructors Inc Alhambra, CA	Anheuser-Busch Brewery (Budweiser), Van Nuys, CA	Welder (helper)	1980 (2 weeks)
Job Duties: Plaintiff worked as a helper for pipe welders, who were using protective asbestos blankets. Plaintiff handed materials to the welders as they worked. Plaintiff currently contends he was exposed to asbestos during this employment			
Employer	Location of Exposure	Job Title	Exposure Dates
Grinnell Corporation 1 Town Center Rd Boca Raton, FL	U.S. Air Force, Vandenberg AFB, Lompoc, CA	Sprinkler Fitter	1/1980-12/1980 (1,866 hrs); 1/1981-12/1981 (1,954 hrs); 1/1982-12/1982

(1,959 hrs);
1/1983-12/1983
(1,810 hrs)

Job Duties: Plaintiff recalls working at the space shuttle launch complex. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Grinnell Corporation 1 Town Center Rd Boca Raton, FL	Kaiser Hospital, Canoga Park, CA	Sprinkler Fitter	1/1984-11/1984 (1,827 hrs)

Job Duties: Plaintiff installed fire sprinklers in a new hospital under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Grinnell Corporation 1 Town Center Rd Boca Raton, FL	Home Savings and Loan, Palmdale, CA	Sprinkler Fitter	2/1985-12/1985 (1,187 hrs)

Job Duties: Plaintiff installed fire sprinklers. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Century Sprinkler Corporation 2505 Mirri Mar Ave Long Beach, CA	Westin Bonaventure Hotel, Los Angeles, CA	Sprinkler Fitter (foreman)	9/1985-12/1985 (671 hrs); 1/1986-12/1986 (2,162 hrs); 1/1987-8/1987 (1,269 hrs); 8/1992-10/1992 (232 hrs)

Job Duties: Plaintiff worked in kitchens where he installed new sprinkler heads and new exhaust ducts. Plaintiff recalls scraping asbestos-containing fireproofing from steel beams to install hangers for the piping. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Ortiz Fire Protection Inc 130 S Highland Ave Fullerton, CA	Yorba Linda High School, Yorba Linda, CA	Sprinkler Fitter	8/1987-12/1987 (723 hrs); 1/1988-2/1988 (251 hrs)

Job Duties: Plaintiff installed fire sprinklers at a high school. Plaintiff recalls working in close proximity to old asbestos-containing fireproofing which had been applied at the facility. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Rainco Fire Protection Inc 13105 Lakeland Rd Santa Fe Springs, CA	U.S. Air Force Plant 42, Palmdale, CA	Sprinkler Fitter	3/1988-12/1988 (1,641 hrs); 1/1989-8/1989 (1,229 hrs)

University of California
(UCLA), Los Angeles, CA

Job Duties: Plaintiff worked on repairs in existing buildings and worked as many as two to three jobs per day. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Wormald Fire Systems Inc 273 Corporate Dr Portsmouth, NH	Various Locations	Sprinkler Fitter	8/1989-3/1990 (1,076 hrs)

Job Duties: Plaintiff installed fire sprinklers in buildings under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Wormald Fire Systems Inc 273 Corporate Dr	State Building, downtown Los Angeles, CA	Sprinkler Fitter	1989 (2 weeks, evenings)

Portsmouth, NH

(only)

Job Duties: Plaintiff installed sprinkler systems inside the state building in downtown Los Angeles, California. Plaintiff recalls wearing protective paper suits and a respirator to protect himself from asbestos. Plaintiff recalls workers with an abatement company scraping asbestos off the concrete prior to installing pipe hangers. Plaintiff recalls marking areas where pipe hangers needed to be installed prior to the abatement. Plaintiff currently contends he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Wormald Fire Systems Inc 273 Corporate Dr Portsmouth, NH	Ritz Carlton Hotel, Marina del Rey, CA	Sprinkler Fitter	1989

Job Duties: Plaintiff installed sprinkler systems in a wood-frame hotel under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Wormald Fire Systems Inc 273 Corporate Dr Portsmouth, NH	U.S. Air Force Plant 42, Palmdale, CA	Sprinkler Fitter	1989

Job Duties: Plaintiff installed fire sprinklers in buildings under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Approved Fire Protection Inc 12121 Wilshire Blvd Ste 600 Los Angeles, CA	Various Buildings, Los Angeles, CA and surrounding area Boeing Aircraft, Long Beach, CA	Sprinkler Fitter	3/1990-10/1990 (1057 hrs)

Job Duties: Plaintiff installed sprinklers in wood-frame buildings under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Advance Fire Protection Company Inc 1451 W Lambert Rd La Habra, CA	May Company, Los Angeles, CA	Sprinkler Fitter	10/1990 (48 hrs); 12/1990 (104 hrs); 1/1991 (56 hrs)

Job Duties: Plaintiff installed sprinklers at a department store and other sites. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Action Fire Protection 11120 Western Ave Stanton, CA	Citadel Outlets, Los Angeles, CA	Sprinkler Fitter	10/1990 (58 hrs)

Job Duties: Plaintiff installed fire sprinklers in a mall under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
International Fire Sprinkler Inc 2551 Metro Blvd Maryland Heights, MO	Naval Air Station, Point Mugu, CA	Sprinkler Fitter	1/1991-4/1991 (438 hrs) (less than a year)

Job Duties: Plaintiff installed sprinklers in an area where rockets were tested. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
Garvin Fire Protection Systems Inc Carefree, AZ	Cerritos Center for the Performing Arts, Cerritos, CA	Sprinkler Fitter	5/1991-8/1991 (467 hrs)

Job Duties: Plaintiff installed a sprinkler system in a performing arts venue under construction. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

Employer	Location of Exposure	Job Title	Exposure Dates
ESI Construction Inc 2978 First St I La Verne, CA	Unknown Building, Los Angeles, CA	Laborer	1994 (1 month)

Job Duties: Plaintiff worked outside of a damaged building repairing gas lines following the Northridge Earthquake. Plaintiff is currently unaware if he was exposed to asbestos during this employment.

From 1958 to 1994, plaintiff worked 36 years as a member of the Sprinkler Fitters UA Local 769. Plaintiff recalls working on and off with various co-workers, including Ken Carpenter, Arkansas; Jerry Grady, deceased; Paul Huerta in the 1970s, Cerritos, California; Tom Collier in the late 1970s and early 1980s; and Jim Duffy.

NON-OCCUPATIONAL EXPOSURE:

FRICITION:

From approximately 1956 up until the mid 1990s, plaintiff removed and replaced the brakes on a variety of vehicles. Plaintiff recalls removing the original equipment manufacturer's brakes from a 1969 OLDSMOBILE (GENERAL MOTORS CORPORATION) and a 1983 OLDSMOBILE (GENERAL MOTORS CORPORATION). Plaintiff removed and replaced the brakes on other vehicles, including a 1949 Ford, purchased in 1956; a 1974 Ford Ltd.; a 1957 Chevrolet pick-up truck; and a 1954 Chevrolet purchased around 1956. Plaintiff also helped his father remove and replace the brakes in a 1939 Chevrolet and a 1951 Chevrolet. Plaintiff used a paint brush to clean the residue from the backing plates where the brakes were mounted. Plaintiff recalls purchasing BENDIX (HONEYWELL INTERNATIONAL) brakes from K & R AUTOMOTIVE, East Los Angeles, California. Plaintiff recalls purchasing RAYBESTOS (RAYMARK INDUSTRIES, INC.) disc brakes for installation in the 1983 Oldsmobile. Plaintiff currently contends he was exposed to asbestos as a result of this automotive work.

EXHIBIT G

Ysidro M. Limon, Sr.
DOI: N/A

Page No.	Health Care Provider	Date of Service	Total Charges	Total Adjustment	Total Paid	Paid By	Total Balance
2	Lambert Radiology	04/18/2006	\$43.00	\$0.00	\$9.20	National Automatic Sprinkler Industry Fund	\$33.80
16	Lambert Radiology	07/18/2007	\$43.00	\$0.00	\$9.06	National Automatic Sprinkler Industry Fund	\$33.94
15	Lambert Radiology	07/19/2007	\$36.00	\$0.00	\$7.44	National Automatic Sprinkler Industry Fund	\$28.56
14	Lambert Radiology	07/22/2007	\$36.00	\$0.00	\$7.44	National Automatic Sprinkler Industry Fund	\$28.56
9	Lambert Radiology	08/09/2007 - 09/12/2007	\$129.00	\$0.00	\$27.18	National Automatic Sprinkler Industry Fund	\$101.82
8	Lambert Radiology	08/19/2007 - 09/06/2007	\$72.00	\$0.00	\$14.88	National Automatic Sprinkler Industry Fund	\$57.12
6	Lambert Radiology	08/22/2007	\$36.00	\$0.00	\$7.44	National Automatic Sprinkler Industry Fund	\$28.56
7	Lambert Radiology	08/25/2007	\$36.00	\$0.00	\$9.06	National Automatic Sprinkler Industry Fund	\$26.94

Ysidro M. Limon, Sr.
DOI: N/A

Page No	Health Care Provider	Date of Service	Total Charges	Total Adjustment	Total Paid	Paid By	Total Balance
13	Lambert Radiology	09/13/2007	\$43.00	\$0.00	\$9.06	National Automatic Sprinkler Industry Fund	\$33.94
17	Lambert Radiology	09/14/2007	\$43.00	\$0.00	\$9.06	National Automatic Sprinkler Industry Fund	\$33.94
20	Lambert Radiology	03/14/2012	\$253.00	\$0.00	\$55.20	National Automatic Sprinkler Industry Fund	\$197.80
		Total:	\$770.00	\$0.00	\$165.02		\$604.98
3	Paresh Patel, M.D.	04/29/2006 - 04/30/2006	\$140.00	\$0.00	\$95.16	National Automatic Sprinkler Industry Fund	\$44.84
19	Paresh Patel, M.D.	03/05/2012	\$195.00	\$0.00	\$137.30	National Automatic Sprinkler Industry Fund	\$57.70
22	Paresh Patel, M.D.	10/11/2013	\$82.00	\$0.00	\$61.87	National Automatic Sprinkler Industry Fund	\$20.13
21	Paresh Patel, M.D.	02/08/2014	\$82.00	\$0.00	\$63.13	National Automatic Sprinkler Industry Fund	\$18.87
		Total:	\$499.00	\$0.00	\$357.46		\$141.54

Ysidro M. Limon, Sr.
DOI: N/A

Page No	Health Care Provider	Date of Service	Total Charges	Total Adjustment	Total Paid	Paid By	Total Balance
10	Intercommunity Family Medical Group	07/19/2007	\$420.00	\$0.00	\$166.84	National Automatic Sprinkler Industry Fund	\$253.16
11	Intercommunity Family Medical Group	07/20/2007	\$120.00	\$52.15	\$54.28	Medicare	\$13.57
		Total:	\$540.00	\$52.15	\$221.12		\$266.73
12	Eduardo A. Tovar, M.D.	09/11/2007	\$200.00	\$0.00	\$133.63	National Automatic Sprinkler Industry Fund	\$66.37
		Total:	\$200.00	\$0.00	\$133.63		\$66.37
13	Jeffrey W. Kronson, M.D.	09/14/2007	\$213.00	\$0.00	\$77.48	National Automatic Sprinkler Industry Fund	\$135.52
		Total:	\$213.00	\$0.00	\$77.48		\$135.52
12	Kenneth Lynch, M.D.	02/07/2008	\$79.00	\$0.00	\$16.35	National Automatic Sprinkler Industry Fund	\$62.65
		Total:	\$79.00	\$0.00	\$16.35		\$62.65

Ysidro M. Limon, Sr.
DOI: N/A

Page No	Health Care Provider	Date of Service	Total Charges	Total Adjustment	Total Paid	Paid By	Total Balance
11	Presbyterian Intercommunity Hospital	02/07/2008	\$989.00	\$0.00	\$78.24	National Automatic Sprinkler Industry Fund	\$910.76
		Total:	\$989.00	\$0.00	\$78.24		\$910.76
18	USC Care Medical Group	01/11/2011	\$36.00	\$0.00	\$11.74	National Automatic Sprinkler Industry Fund	\$24.26
		Total:	\$36.00	\$0.00	\$11.74		\$24.26
		Grand Total:	\$1,025.00	\$52.15	\$1,061.04		\$2,212.81

EXHIBIT H

1 ALAN R. BRAYTON, ESQ., S.B. #73685
2 DAVID R. DONADIO, ESQ., S.B. #154436
3 JAMES P. NEVIN, ESQ., S.B. #220816
NANCY T. WILLIAMS, ESQ., S.B. #201095
4 BRAYTON PURCELL LLP
Attorneys at Law
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P.O. Box 6169
Novato, California 94948-6169
(415) 898-1555

6 Attorneys for Plaintiff
7

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO
10

11 YSIDRO LIMON, SR.,)
12 Plaintiff,)
13 vs.)
14 AMCORD, INC.;)
CERTAINEED CORPORATION;)
COLONIAL SUGAR REFINING)
COMPANY;)
GEORGIA-PACIFIC LLC (FKA GEORGIA-)
PACIFIC CORPORATION);)
HONEYWELL INTERNATIONAL, INC.;)
KAISER GYPSUM COMPANY, INC.;)
KELLY-MOORE PAINT COMPANY, INC.;)
METROPOLITAN LIFE INSURANCE)
COMPANY;)
GRINNELL LLC (FKA GRINNELL)
CORPORATION, AKA GRINNELL FIRE);)
FAMILIAN CORPORATION;)
K & R AUTOMOTIVE;)
ANHEUSER-BUSCH, LLC (FKA)
ANHEUSER-BUSCH, INC.);)
C.F. BOLSTER COMPANY;)
PIERCE LATHING CO. (DBA PIERCE)
ENTERPRISES);)
MARTIN BROTHERS/MARCOVALL,)
INC.;)
BOLSTER-DUNCAN, A JOINT VENTURE,)
CONSISTING OF CARROLL DUNCAN &)
CO. AND C. F. BOLSTER COMPANY,)
PARTNERS;)
E.S. BROWNING CO.;)
CARROLL DUNCAN & CO.;)
and DOES 1 through 800, inclusive, as)

ASBESTOS Case No. 15 276378

COMPLAINT FOR PERSONAL INJURY - ASBESTOS

(Pursuant to Case Management Order, Filed June 29, 2012)

Index of Causes of Action:

1. Negligence I
2. Products Liability
3. Negligence II
4. Aiding and Abetting Battery [Against Metropolitan Life Insurance Company and Does 750-790, Inclusive]
5. Concert of Action
6. Fraud and Deceit/Concealment
7. Fraud and Deceit/Intentional Misrepresentation

ENDORSED
FILED
Superior Court of California
County of San Francisco
JAN 02 2015
CLERK OF THE COURT
BY: ROSSALY DELAVEGA-NAVARRO
Deputy Clerk

1 required by California law on joint and several)
2 liability pursuant to California Civil Code)
3 § 1431.2 enacted by the People of the State of)
California,)
4 Defendants.)

5 **FIRST CAUSE OF ACTION**
(Negligence I)

6
7 PLAINTIFF YSIDRO LIMON, SR, COMPLAINS OF DEFENDANTS HEREIN
8 BELOW NAMED, THEIR "ALTERNATE ENTITIES" AND EACH OF THEM, FOR A
9 CAUSE OF ACTION FOR NEGLIGENCE I, PURSUANT TO CIVIL CODE § 1714, BAJI
10 3.00, 3.10, 3.11, 3.12, 3.76, 3.77, 3.78, 9.19, 9.20, 9.21, AND CACI 400, 401, 431, 435, 1220,
11 1221, 1222, 1223, AND ALLEGES:

12 1. The true names and capacities, whether individual, corporate, associate,
13 governmental or otherwise, of defendants DOES 1 through 300, inclusive, are unknown to
14 plaintiff at this time, who therefore sues said defendants by such fictitious names. When the true
15 names and capacities of said defendants have been ascertained, plaintiff will amend this
16 complaint accordingly. Plaintiff is informed and believes, and thereon alleges, that each
17 defendant designated herein as a DOE is responsible, negligently or in some other actionable
18 manner, for the events and happenings hereinafter referred to, and caused injuries and damages
19 proximately thereby to the plaintiff, as hereinafter alleged.

20 2. At all times herein mentioned, each of the defendants was the agent, servant,
21 employee and/or joint venturer of his co-defendants, and each of them, and at all said times, each
22 defendant was acting in the full course and scope of said agency, service, employment and/or
23 joint venture.

24 3. Plaintiff is informed and believes, and thereon alleges that at all times herein
25 mentioned, defendants: AMCORD, INC.; CERTAINTEED CORPORATION; COLONIAL
26 SUGAR REFINING COMPANY; GEORGIA-PACIFIC LLC (FKA GEORGIA-PACIFIC
27 CORPORATION); HONEYWELL INTERNATIONAL, INC.; KAISER GYPSUM COMPANY,
28 INC.; KELLY-MOORE PAINT COMPANY, INC.; METROPOLITAN LIFE INSURANCE

1 COMPANY; GRINNELL LLC (FKA GRINNELL CORPORATION, AKA GRINNELL FIRE);
2 FAMILIAN CORPORATION; K & R AUTOMOTIVE; and DOES 1 through 300, inclusive,
3 were individuals, or corporations, partnerships and/or unincorporated associations organized and
4 existing under and by virtue of the laws of the State of California, or the laws of some other state
5 or foreign jurisdiction, and that said defendants, and each of them, were and are authorized to do
6 and are doing business in the State of California, and that said defendants have regularly
7 conducted business in the County of San Francisco, State of California.

8 4. At all times herein mentioned, each of the named defendants and DOES 1 through
9 300 was the successor, successor in business, successor in product line or a portion thereof,
10 assign, predecessor, predecessor in business, predecessor in product line or a portion thereof,
11 parent, subsidiary, wholly or partially owned by, or the whole or partial owner of or member in
12 an entity researching, studying, manufacturing, fabricating, designing, modifying, labeling,
13 assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting,
14 servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding,
15 manufacturing for others, packaging and advertising a certain substance, the generic name of
16 which is asbestos and other products containing said substance. Said entities shall hereinafter
17 collectively be called "alternate entities." Each of the herein named defendants is liable for the
18 tortious conduct of each successor, successor in business, successor in product line or a portion
19 thereof, assign, predecessor in product line or a portion thereof, parent, subsidiary, whole or
20 partial owner, or wholly or partially owned entity, or entity that it was a member of, or funded,
21 that researched, studied, tested, manufactured, fabricated, designed, modified, labeled,
22 assembled, distributed, promoted, leased, bought, offered for sale, recommended for use,
23 supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed,
24 warranted, evaluated, rebranded, manufactured for others and advertised a certain substance, the
25 generic name of which is asbestos and other products containing said substance. The following
26 defendants, and each of them, are liable for the acts of each and every "alternate entity," and each
27 of them, in that there has been a virtual destruction of plaintiff's remedy against each such
28 "alternate entity"; defendants, and each of them, have acquired the assets, product line, or a

1 portion thereof, of each such "alternate entity"; such "alternate entity"; defendants, and each of
2 them, caused the destruction of plaintiff's remedy against each such "alternate entity"; each such
3 defendant has the ability to assume the risk-spreading role of each such "alternate entity"; and
4 that each such defendant enjoys the goodwill originally attached to each such "alternate entity."

<u>DEFENDANT</u>	<u>ALTERNATE ENTITY</u>
6 HONEYWELL INTERNATIONAL, INC.	HONEYWELL, INC. HONEYWELL CONTROLS ALLIEDSIGNAL, INC. AIRESEARCH DOMESTIC INTERNATIONAL SALES CORPORATION ALLIED-SIGNAL, INC. THE BENDIX CORPORATION BENDIX PRODUCTS AUTOMOTIVE DIVISION BENDIX PRODUCTS DIVISION, BENDIX AVIATION CORP. BENDIX HOME SYSTEMS ALLIED CORPORATION ALLIED CHEMICAL CORPORATION GENERAL CHEMICAL CORPORATION FRAM FRICTION MATERIALS OF LOS ANGELES NORTH AMERICAN REFRactories COMPANY EM SECTOR HOLDINGS INC. UNIVERSAL OIL PRODUCTS COMPANY BOYLSTON CORPORATION EHRHART & ASSOCIATES, INC. EHRHART & ARTHUR, INC. GARRETT AIR RESEARCH CORP. STANLEY G. FLAGG & CO. MERGENTHALER LINOTYPE COMPANY ELTRA CORPORATION BUNKER RAMO-ELTRA CORPORATION UNION TEXAS NATURAL GAS CORPORATION UNION OIL AND GAS OF LOUISIANA UNION SULPHUR AND OIL CORPORATION UNION SULPHUR COMPANY, INC., THE MINNEAPOLIS-HONEYWELL REGULATOR COMPANY SIGNAL COMPANIES, INC., THE HANCOCK OIL COMPANY BARRETT DIVISION, ALLIED CHEMICAL & DYE CORPORATION SIGNAL OIL & GAS CO. BANKLINE OIL COMPANY
25 CERTAINTeed CORPORATION	GUSTIN-BACON MANUFACTURING CO PARKSON PIPELINE MATERIALS WATERCO SUPPLY WATER WORKS SUPPLY & MFG. CO. WATER WORKS SUPPLY COMPANY, INC.
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	<u>DEFENDANT</u>	<u>ALTERNATE ENTITY</u>
1	AMCORD, INC.	RIVERSIDE CEMENT COMPANY AMERICAN CEMENT CORPORATION
2		PEERLESS CEMENT HERCULES CEMENT
3		GIFFORD HILL CO.
4		BEAZER WEST, INC.
5		CORNERSTONE C&M CO.
6		HANSON BUILDING MATERIALS, INC./HANSON PLC
7	GEORGIA-PACIFIC LLC (FKA GEORGIA-PACIFIC CORPORATION)	HANSON PLC
8		HANSON AGGREGATES WEST, INC.
9	KAIser GYPSUM COMPANY, INC.	BESTWALL GYPSUM COMPANY CALIFORNIA WESTERN RAILROAD COLUMBIA VALLEY LUMBER COMPANY
10	KELLY-MOORE PAINT COMPANY, INC.	LEHIGH HANSON, INC.
11		FRANK W. DUNNE COMPANY DUNNE QUALITY PAINTS
12	GRINNELL LLC (FKA GRINNELL CORPORATION, ALSO KNOWN AS GRINNELL FIRE)	GRINNELL COMPANY OF THE PACIFIC GRINNELL FIRE PROTECTION SYSTEMS COMPANY, INC.
13		
14	FAMILIAN CORPORATION	FAMILIAN PIPE & SUPPLY INDUSTRIES SUPPLY CO. BAY AREA PIPE & SUPPLY CO., INC.
15		

16 5. At all times herein mentioned, defendants, their "alternate entities," and each of
 17 them, were and are engaged in the business of mining, processing, sorting, researching,
 18 manufacturing, fabricating, designing, modifying, labeling, assembling, distributing, leasing,
 19 buying, offering for sale, supplying, selling, inspecting, servicing, installing, removing,
 20 manipulating, testing, disturbing, contracting for installation, repairing, marketing, warranting,
 21 rebranding, manufacturing for others, packaging and/or advertising a certain substance, the
 22 generic name of which is asbestos and other products containing said substance.

23 6. There is general agreement among scientists, health care providers, physicians,
 24 and health and science related agencies and organizations, including but not limited to, the World
 25 Health Organization, International Agency for Research on Cancer, American Cancer Society,
 26 National Cancer Institute, National Toxicology Program, Environmental Protection Agency,
 27 American Thoracic Society, Occupational Safety and Health Administration, Consumer Products
 28 Safety Commission, and the United States Congress that exposure to any asbestos type can

1 increase the risk of disease, including but not limited to sub-clinical pleural, lung, and other
2 organ scarring, cancer, mesothelioma, and non-malignant lung and pleural disorders. Evaluation
3 of all available human data provides no evidence for a "safe" level of asbestos exposure below
4 which risk of clinical disease is not increased. The mainstream scientific and medical
5 community is in consensus that exposure to asbestos at current regulatory levels results in excess
6 incidence of mesothelioma and that any occupational or para-occupational exposure to asbestos -
7 even that described as low-level or brief in duration must be regarded as causal in an individual
8 with clinical mesothelioma. "The victim ultimately suffocates from the tumor." Hernandez v.
9 Amcord, Inc., 215 Cal.App.4th 659, 664. A rigorous review of the epidemiologic evidence
10 confirms that all types of asbestos fibre are causally implicated in the development of various
11 diseases and premature death. Numerous well respected international and national scientific
12 organizations, through an impartial and rigorous process of deliberation and evaluation, have
13 concluded that all forms of asbestos are capable of inducing mesothelioma, lung cancer,
14 asbestosis and other diseases. These conclusions are based on the full body of evidence,
15 including the epidemiology, toxicology, industrial hygiene, biology, pathology, and other related
16 literature published to the time of the respective evaluations. Since the 1960s, the scientific
17 evidence has become overwhelming that occupational and environmental exposure to asbestos
18 can cause asbestosis, lung cancer, and mesothelioma. A large number of studies have reported an
19 excess of mesothelioma and lung cancer among workers who were predominantly exposed to
20 chrysotile asbestos (Kanarek, 2011). For example, excess mortality from lung cancer and
21 mesothelioma has been reported among miners and millers in Quebec (Liddell, et al., 1997),
22 among textile workers in South Carolina (Hein, et al., 2007) and North Carolina (Loomis, et al.,
23 2009), Chinese chrysotile production workers (Wang, et al., 2012), and in Italian miners (Pira, et
24 al., 2009) exposed primarily to chrysotile asbestos.

25 7. A basic tenet of California law is that everyone is required to use ordinary care in
26 their activities so as to regard the safety of others and prevent injury to others from their conduct
27 or omissions. (Civ. Code, § 1714, subd. (a); Pedferri v. Seidner Enterprises (2013) 216
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1 Cal.App.4th 359, 365; Cabral v. Ralphs (2011) 51 Cal.4th 764; Merrill v. Navegar, Inc. (2002)
2 26 Cal.4th 465; Hilyar v. Union Ice Co. (1955) 45 Cal.2d 30, 36.)

3 8. At all times herein mentioned, defendants, their "alternate entities" and each of
4 them, singularly and jointly, failed to use ordinary care to prevent harm to themselves or to
5 others, negligently acted or failed to act, negligently did something that a reasonably careful
6 person would not do in the same situation, negligently failed to do something that a reasonably
7 careful person would do in the same situation, negligently and carelessly researched or failed to
8 research, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to
9 abate, warned or failed to warn of the health hazards, labeled or failed to label, assembled,
10 distributed, leased, bought, offered for sale, supplied, sold, inspected or failed to inspect,
11 serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded,
12 manufactured for others, packaged and advertised, removed, disturbed, failed to recall, and/or
13 failed to retrofit, a certain substance, the generic name of which is asbestos and other products
14 containing said substance, in that said substance proximately caused personal injuries to users,
15 consumers, workers, bystanders, family members, and others, including the plaintiff herein
16 (hereinafter collectively called "exposed persons"), while being used in a manner that was
17 reasonably foreseeable, thereby rendering said substance unsafe and dangerous for use by
18 "exposed persons."

19 9. Defendants, their "alternate entities," and each of them, had a duty to exercise due
20 care in the pursuance of the activities mentioned above and defendants, and each of them,
21 breached said duty of due care.

22 10. Defendants, their "alternate entities" and each of them, knew, or should have
23 known, and intended that the aforementioned asbestos and products containing asbestos would
24 be transported by truck, rail, ship and other common carriers, that in the shipping process the
25 products would break, crumble or be otherwise damaged; and/or that such products would be
26 used for insulation, construction, drywalling, plastering, fireproofing, soundproofing, automotive,
27 aircraft and/or other applications, including, but not limited to mixing, sawing, chipping,
28 hammering, scraping, sanding, drilling, breaking, removal, "rip-out," clean up, and other

1 manipulation, resulting in the indiscriminate or other release of airborne asbestos fibers, and that
2 through such foreseeable use and/or handling "exposed persons," including plaintiff herein,
3 would use or be in proximity to and exposed to said asbestos fibers, which contaminated the
4 packaging, products, environment, and clothing of persons working in proximity to said
5 products, directly or through reentrainment.

6 11. Defendants, their "alternate entities" and each of them, knew, or should have
7 known, and intended that the aforementioned asbestos and asbestos-containing products would
8 be used, manipulated, or handled as specified in Exhibit A, which is attached hereto and
9 incorporated by reference herein, resulting in the release of airborne asbestos fibers, and that
10 through such foreseeable use and/or handling "exposed persons," including plaintiff herein,
11 would be in proximity to and exposed to said asbestos fibers.

12 12. Plaintiff YSIDRO LIMON, SR. has used, handled or been otherwise exposed to
13 asbestos and asbestos-containing products referred to herein in a manner that was reasonably
14 foreseeable and from the intended use of the product. Plaintiff's exposure to asbestos and
15 asbestos-containing products occurred at various locations as set forth in Exhibit A, which is
16 attached hereto and incorporated by reference herein.

17 13. As a direct and proximate result of the conduct or omissions of the defendants,
18 their "alternate entities," and each of them, as aforesaid, plaintiff's exposure to asbestos and
19 asbestos-containing products caused severe and permanent injury, damage, loss, or harm to the
20 plaintiff, the nature of which, along with the date of plaintiff's diagnosis, are set forth in Exhibit
21 B, which is attached hereto and incorporated by reference herein.

22 14. Plaintiff is informed and believes, and thereon alleges, that progressive lung
23 disease, cancer and other serious diseases and physical injury are caused by inhalation of asbestos
24 fibers without contemporaneous perceptible trauma and that said disease results from exposure to
25 asbestos and asbestos-containing products over a period of time.

26 15. Plaintiff YSIDRO LIMON, SR. suffers from a condition related to exposure to
27 asbestos and asbestos-containing products.

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1 16. As a direct and proximate result of the aforesaid conduct of defendants, their
2 "alternate entities," and each of them, plaintiff has suffered, and continues to suffer, permanent
3 injuries and/or future increased risk of injuries to his person, body and health, including, but not
4 limited to, pleural disease, asbestosis, other lung damage, and cancer, and the mental and
5 emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his
6 general damage in a sum in excess of the jurisdictional limits of a limited civil case. This action
7 is an Unlimited Civil Case as defined in Code of Civil Procedure § 88.

8 17. As a direct and proximate result of the aforesaid conduct of the defendants, their
9 "alternate entities," and each of them, plaintiff has incurred, is presently incurring, and will incur
10 in the future, liability for physicians, surgeons, nurses, hospital care, medicine, hospice care, X-
11 rays, CT scans, PET scans, and other medical treatment, the true and exact amount thereof being
12 unknown to plaintiff at this time, and plaintiff prays leave to amend this complaint accordingly
13 when the true and exact cost thereof is ascertained.

14 18. As a further direct and proximate result of the said conduct of the defendants,
15 their "alternate entities," and each of them, plaintiff has incurred, and will incur, loss of income,
16 wages, profits and commissions, a diminishment of earning potential, and other pecuniary losses,
17 the full nature and extent of which are not yet known to plaintiff; and leave is requested to amend
18 this complaint to conform to proof at the time of trial.

19 19. The following defendants, their "alternate entities," and each of them, and their
20 officers, directors and managing agents participated in, authorized, expressly and impliedly
21 ratified, and had full knowledge of, or should have known of, each of the acts set forth herein.
22 The following defendants, their "alternate entities," and each of them, are liable for the
23 fraudulent, oppressive, and malicious acts of their "alternate entities," and each of them, and each
24 defendant's officers, directors and managing agents participated in, authorized, expressly and
25 impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their
26 "alternate entities" as set forth herein. The herein-described conduct of said defendants listed in
27 this paragraph below, their "alternate entities," and each of them, was and is willful, malicious,
28 fraudulent, outrageous and in conscious disregard and indifference to the safety and health of

1 "exposed persons." Plaintiff, for the sake of example and by way of punishing said defendants,
2 seeks punitive damages according to proof against the following defendants only: AMCORD,
3 INC.; CERTAINEED CORPORATION; GEORGIA-PACIFIC LLC (FKA GEORGIA-
4 PACIFIC CORPORATION); HONEYWELL INTERNATIONAL, INC.; KAISER GYPSUM
5 COMPANY, INC.; and KELLY-MOORE PAINT COMPANY, INC.

WHEREFORE, plaintiff prays judgment against defendants, their "alternate entities," and each of them, as hereinafter set forth.

SECOND CAUSE OF ACTION
(Products Liability)

10 AS AND FOR A SECOND, SEPARATE, FURTHER AND DISTINCT CAUSE OF
11 ACTION FOR PRODUCTS LIABILITY, PLAINTIFF YSIDRO LIMON, SR. COMPLAINS OF
12 DEFENDANTS NAMED IN PARAGRAPH 3 HEREIN ABOVE, AND EACH OF THEM,
13 PURSUANT TO BAJI 3.76, 3.77, 3.78, 9.00, 9.00.5, 9.00.7, AND CACI 431, 435, 1200, 1203,
14 1205, AND 1223, AND ALLEGES AS FOLLOWS:

15 20. Plaintiff incorporates herein by reference, as though fully set forth herein, the
16 allegations and facts contained in all of the foregoing paragraphs.

17 21. Defendants, their "alternate entities," and each of them, defectively designed
18 asbestos and asbestos-containing products and failed to adequately warn of potential safety
19 hazards of asbestos and asbestos-containing products.

20 22. Such asbestos and asbestos-containing products did not perform as safely as an
21 ordinary consumer would expect when used or misused in an intended or reasonably foreseeable
22 way.

23 23. Such asbestos and asbestos-containing products when used or misused in an
24 intended or reasonably foreseeable way had potential risks that were known or knowable in light
25 of the scientific and medical knowledge that was generally accepted in the scientific community
26 at the time of manufacture, distribution, or sale, and defendants failed to adequately warn of
27 those potential risks.

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1 24. Defendants, their "alternate entities," and each of them, knew and intended that
2 the above-referenced asbestos and asbestos-containing products would be used by the purchaser
3 or user without inspection for defects therein or in any of their component parts and without
4 knowledge of the hazards involved in such use.

5 25. Said asbestos and asbestos-containing products were defective under California
6 Consumer Safety Law and unsafe for their intended purpose in that the inhalation of asbestos
7 fibers causes serious disease and/or death. The defect existed in the said products at the time
8 they left the possession of defendants, their "alternate entities," and each of them. Said products
9 did, in fact, cause personal injuries, including asbestosis, other lung damage, and cancer to
10 "exposed persons," including plaintiff herein, while being used in a reasonably foreseeable
11 manner, thereby rendering the same defective, unsafe and dangerous for use. Moreover, said
12 products failed to be designed, as required by California law, to account for foreseeable risks,
13 even if they arise from the conduct of others. Collins v. Navistar, Inc. (2013) 214 Cal.App.4th
14 1486, 1511.

15 26. "Exposed persons" did not know of the substantial danger of using said products.
16 Said dangers were not readily recognizable by "exposed persons." Said defendants, their
17 "alternate entities," and each of them, further failed to adequately warn of the risks to which
18 plaintiff and others similarly situated were exposed.

19 27. In researching or failing to research, manufacturing, fabricating, designing,
20 modifying, testing or failing to test, warning or failing to warn, labeling or failing to label,
21 assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting,
22 servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding,
23 manufacturing for others, packaging and advertising, disturbing, removing, failing to recall,
24 failing to retrofit asbestos and asbestos-containing products, defendants, their "alternate entities,"
25 and each of them, did so with reckless or conscious disregard for the safety of "exposed persons"
26 who came in contact with said asbestos and asbestos-containing products, related to the intended
27 use of said products by defendants, which intended use created hazardous circumstance and
28 situation, in that said defendants, their "alternate entities," and each of them, had prior knowledge

1 that there was a substantial risk of injury or death resulting from exposure to asbestos or
2 asbestos- containing products, including, but not limited to, asbestosis, other lung disabilities and
3 cancer. Said knowledge was obtained, in part, from scientific studies performed by, at the
4 request of, or with the assistance of, said defendants, their "alternate entities," and each of them,
5 and which knowledge was obtained by said defendants, their "alternate entities," and each of
6 them on or before 1930, and thereafter.

7 28. On or before 1930, and thereafter, said defendants, their "alternate entities" and
8 each of them, were aware that members of the general public and other "exposed persons," who
9 would come in contact with their asbestos and asbestos-containing products, had no knowledge
10 or information indicating that asbestos or asbestos-containing products could cause injury, and
11 said defendants, their "alternate entities," and each of them, knew that members of the general
12 public and other "exposed persons," who came in contact with asbestos and asbestos-containing
13 products, would assume, and in fact did assume, that exposure to asbestos and asbestos-
14 containing products was safe, when in fact said products and exposure thereto was extremely
15 hazardous to health and human life.

16 29. With said knowledge, said defendants, their "alternate entities," and each of them,
17 opted to research, manufacture, fabricate, design, modify, label, assemble, distribute, lease, buy,
18 offer for sale, supply, sell, inspect, service, install, contract for installation, repair, market,
19 warrant, rebrand, manufacture for others, package and advertise, remove, and disturb said
20 asbestos and asbestos- containing products without attempting to protect "exposed persons" from
21 or warn "exposed persons" of, the high risk of injury or death resulting from exposure to asbestos
22 and asbestos-containing products. Rather than attempting to protect "exposed persons" from, or
23 warn "exposed persons" of, the high risk of injury or death resulting from exposure to asbestos
24 and asbestos-containing products, defendants, their "alternate entities," and each of them,
25 intentionally failed to reveal their knowledge of said risk, and consciously and actively concealed
26 and suppressed said knowledge from "exposed persons" and members of the general public, thus
27 impliedly representing to "exposed persons" and members of the general public that asbestos and
28 asbestos-containing products were safe for all reasonably foreseeable uses. Defendants, their

1 "alternate entities," and each of them, engaged in this conduct and made these implied
2 representations with the knowledge of the falsity of said implied representations.

3 30. The above-referenced conduct of said defendants, their "alternate entities," and
4 each of them, was motivated by the financial interest of said defendants, their "alternate entities,"
5 and each of them, in the continuing, uninterrupted research, design, modification, manufacture,
6 fabrication, labeling, assembly, distribution, lease, purchase, offer for sale, supply, sale,
7 inspection, installation, contracting for installation, repair, marketing, warranting, rebranding,
8 manufacturing for others, packaging and advertising, disturbing, removing of asbestos and
9 asbestos-containing products. In pursuance of said financial motivation, said defendants, their
10 "alternate entities," and each of them, consciously disregarded the safety of "exposed persons"
11 and in fact were consciously willing and intended to permit asbestos and asbestos-containing
12 products to cause injury to "exposed persons" and induced persons to work with and be exposed
13 thereto, including plaintiff.

14 31. Plaintiff alleges that the aforementioned defendants, their "alternate entities," and
15 each of them impliedly warranted their asbestos and asbestos-containing products, to be safe for
16 their intended use but that their asbestos and asbestos-containing products, created an
17 unreasonable risk of bodily harm to exposed persons.

18 32. Plaintiff further alleges his injuries are a result of cumulative exposure to asbestos
19 and various asbestos-containing products manufactured, fabricated, inadequately researched,
20 designed, modified, inadequately tested, labeled, assembled, distributed, leased, bought, offered
21 for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired,
22 marketed, warranted, rebranded, manufactured for others, packaged and advertised by the
23 aforementioned defendants, their "alternate entities," and each of them and that plaintiff cannot
24 identify precisely which asbestos or asbestos-containing products caused the injuries complained
25 of herein.

26 33. Plaintiff relied upon defendants', their "alternate entities'," and each of their
27 representations, lack of warnings, and implied warranties of fitness of asbestos and their
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1 asbestos-containing products. As a direct, foreseeable and proximate result thereof, plaintiff has
2 been injured permanently as alleged herein.

3 34. As a direct and proximate result of the actions and conduct outlined herein,
4 plaintiff has suffered the injuries and damages previously alleged.

5 35. The following defendants, their "alternate entities," and each of them, and their
6 officers, directors and managing agents participated in, authorized, expressly and impliedly
7 ratified, and had full knowledge of, or should have known of, each of the acts set forth herein.
8 The following defendants, their "alternate entities," and each of them, are liable for the
9 fraudulent, oppressive, and malicious acts of their "alternate entities," and each of them, and each
10 defendant's officers, directors and managing agents participated in, authorized, expressly and
11 impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their
12 "alternate entities" as set forth herein. The herein-described conduct of said defendants listed in
13 this paragraph below, their "alternate entities," and each of them, was and is willful, malicious,
14 fraudulent, outrageous and in conscious disregard and indifference to the safety and health of
15 "exposed persons." Plaintiff, for the sake of example and by way of punishing said defendants,
16 seeks punitive damages according to proof against the following defendants only: AMCORD,
17 INC.; CERTAINTEED CORPORATION; GEORGIA-PACIFIC LLC (FKA GEORGIA-
18 PACIFIC CORPORATION); HONEYWELL INTERNATIONAL, INC.; KAISER GYPSUM
19 COMPANY, INC.; and KELLY-MOORE PAINT COMPANY, INC.

WHEREFORE, plaintiff prays judgment against defendants, their "alternate entities," and each of them, as hereinafter set forth.

THIRD CAUSE OF ACTION
(Negligence II)

24 AS AND FOR A FURTHER AND THIRD, SEPARATE AND DISTINCT CAUSE OF
25 ACTION, PLAINTIFF YSIDRO LIMON, SR. COMPLAINS OF DEFENDANTS ANHEUSER-
26 BUSCH, LLC (FKA ANHEUSER-BUSCH, INC.); C.F. BOLSTER COMPANY; PIERCE
27 LATHING CO. (DBA PIERCE ENTERPRISES); MARTIN BROTHERS/MARCOWALL,
28 INC.; BOLSTER-DUNCAN, A JOINT VENTURE, CONSISTING OF CARROLL DUNCAN &

1 CO. AND C. F. BOLSTER COMPANY, PARTNERS; E.S. BROWNING CO.; CARROLL
2 DUNCAN & CO.; AND DOES 301 THROUGH 500, FOR NEGLIGENCE II, PURSUANT TO
3 CIVIL CODE § 1714, BAJI 3.00, 3.10, 3.11, 3.12, 3.76, 3.77, 3.78, AND CACI 400, 401, 431,
4 435, AND ALLEGES AS FOLLOWS:

5 36. Plaintiff, by this reference, incorporates the allegations and facts contained in all
6 of the forgoing paragraphs.

7 37. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
8 herein, these Defendants and DOES 301 through 500, were individuals, or corporations,
9 partnerships and/or unincorporated associations organized and existing under and by virtue of the
10 laws of the State of California, or the laws of some other state or foreign jurisdiction, and that
11 said defendants, and each of them, were and are authorized to do and are doing business in the
12 State of California.

13 38. At all times herein mentioned, each of these Defendants was a successor,
14 successor-in-business, assign, predecessor, predecessor-in-business, parent, subsidiary, wholly or
15 partially owned by, or the whole or partial owner of an entity causing certain asbestos- and silica-
16 containing insulation, other building materials, asbestos products and toxic substances to be
17 constructed, installed, maintained, used, replaced and/or repaired on the respective premises
18 owned, leased, maintained, managed and/or controlled by them. Said entities shall hereinafter
19 collectively be called "alternate entities." Each of the herein-named defendants is liable for the
20 tortuous conduct of each successor, successor-in-business, assign, predecessor-in-business,
21 parent, subsidiary, whole or partial owner, or wholly or partially owned entity, that caused the
22 presence as aforesaid of said asbestos- and silica-containing insulation, other asbestos products,
23 and other toxic substances. The following defendants, and each of them, are liable for the acts of
24 each and every "alternate entity," and each of them, in that there has been a virtual destruction of
25 plaintiff's remedy against each such alternate entity; defendants, and each of them, have acquired
26 the assets, or a portion thereof, of each such alternate entity; defendants, and each of them, have
27 caused the destruction of plaintiff's remedy against each such alternate entity; each such

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1 defendant has the ability to assume the risk-spreading role of each such alternate entity, and that
2 each such defendant enjoys the goodwill originally attached to each such alternate entity.

<u>DEFENDANT</u>	<u>ALTERNATE ENTITY</u>
4 ANHEUSER-BUSCH, LLC (FKA ANHEUSER-BUSCH, INC.)	BUDWEISER BREWING COMPANY BUDWEISER COMPANY EAGLE SNACKS, INC.
6 C.F. BOLSTER COMPANY	BOLSTER-DUNCAN, A JOINT VENTURE, CONSISTING OF CARROLL DUNCAN & CO. AND C. F. BOLSTER COMPANY, PARTNERS
8 PIERCE LATHING CO. (DBA PIERCE ENTERPRISES)	FRANK D. SMITH COMPANY BRINCKMAN STEEL & SUPPLY CO. PIERCE-HIGH LATHING CO.
10 MARTIN BROTHERS/MARCOWALL, INC.	MARTIN BROTHERS PLASTERING MARTIN BROS. PLASTERING CO.
12 CARROLL DUNCAN & CO.	BOLSTER-DUNCAN, A JOINT VENTURE, CONSISTING OF CARROLL DUNCAN & CO. AND C. F. BOLSTER COMPANY, PARTNERS

14 39. At all times mentioned herein, these Defendants, and each of them, respectively,
15 owned, leased, maintained, managed, and/or controlled the following premises where plaintiff
16 YSIDRO LIMON, SR. was present. The following information provided is preliminary, based
17 on recall over events covering many years and further investigation and discovery may produce
18 more reliable information:

<u>PREMISES OWNER DEFENDANTS</u>	<u>LOCATION</u>	<u>TIME PERIOD</u>
21 ANHEUSER-BUSCH, LLC (FKA ANHEUSER-BUSCH, INC.)	Anheuser-Busch Brewery (Budweiser), Van Nuys, CA	1980
<u>CONTRACTOR DEFENDANTS</u>	<u>LOCATION</u>	<u>TIME PERIOD</u>
24 C.F. BOLSTER COMPANY	Arco Plaza (Twin Towers/City National Plaza), Los Angeles, CA	1934- Early 1970s
26	University of California (UCLA), Los Angeles, CA	1951-1990
27	Pepperdine University, Malibu, CA	1975-1990

	<u>CONTRACTOR DEFENDANTS</u>	<u>LOCATION</u>	<u>TIME PERIOD</u>
1	PIERCE LATHING CO. (DBA PIERCE ENTERPRISES)	Arco Plaza (Twin Towers/City National Plaza), Los Angeles, CA	1968- Early 1970s
2		State Building, downtown Los Angeles, CA	1972-1989
3		Pepperdine University, Malibu, CA	1973-1990
4		University of California (UCLA), Los Angeles, CA	1978-1990
5	MARTIN BROTHERS/MARCOWALL, INC.	Arco Plaza (Twin Towers/City National Plaza), Los Angeles, CA	1950- Early 1970s
6		Anheuser-Busch Brewery (Budweiser), Van Nuys, CA	1953-1980
7		Westin Bonaventure Hotel, Los Angeles, CA	1970-1992
8		Pepperdine University, Malibu, CA	1972-1990
9	BOLSTER-DUNCAN, A JOINT VENTURE, CONSISTING OF CARROLL DUNCAN & CO. AND C. F. BOLSTER COMPANY, PARTNERS	Arco Plaza (Twin Towers/City National Plaza), Los Angeles, CA	1934- Early 1970s
10	E.S. BROWNING CO.	Anheuser-Busch Brewery (Budweiser), Van Nuys, CA	1950-1980
11		Los Angeles Unified School District (LAUSD), Los Angeles, CA	1951-1965
12		University of California (UCLA), Los Angeles, CA	1955-1990
13		Arco Plaza (Twin Towers/City National Plaza), Los Angeles, CA	1967- Early 1970s
14	CARROLL DUNCAN & CO.	University of California (UCLA), Los Angeles, CA	1950-1990
15		Arco Plaza (Twin Towers/City National Plaza), Los Angeles, CA	1954- Early 1970s
16		American Airlines, Los Angeles International Airport (LAX), Los Angeles, CA	1967- Early 1980s
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1 Additionally, plaintiff YSIDRO LIMON, SR. might have been present at these
2 Defendants or other Defendants premises at other locations and on other occasions.

3 40. A basic tenet of California law is that everyone is required to use ordinary care to
4 prevent injury to others from their conduct. (Civ. Code, § 1714, subd. (a); Pedefterri v. Seidner
5 Enterprises (2013) 216 Cal.App.4th 359, 365.) This general rule requires a property owner,
6 contractor, or other person to exercise ordinary care in the management of a premises in order to
7 provide a safe work environment and to avoid exposing persons to an unreasonable risk of harm.
8 (Rowland v. Christian (1968) 69 Cal.2d 108, 112-119; Sprecher v. Adamson Companies (1981)
9 30 Cal.3d 358, 371; Scott v. Chevron U.S.A. (1992) 5 Cal.App.4th 510, 515.; Torres v. Reardon
10 (1992) 3 Cal.App.4th 831, 836-837; Pedefterri v. Seidner Enterprises, 216 Cal.App.4th 359.)
11 Civil Code § 1714 does not limit responsibility for negligence to a certain class of defendants;
12 rather, it provides that “[e]very one is responsible for an injury occasioned to another by [one’s]
13 want of ordinary care or skill.” (Safeco Ins. Co. v. Robert S. (2001) 26 Cal.4th 758, 764
14 (emphasis added).)

15 Negligence may be active or passive in character. It may consist in
16 heedlessly doing an improper thing or in heedlessly refraining from
17 doing the proper thing. Whether the circumstances call for activity
chargeable with negligence with him who does what he should not.

18 Baster v. Sacramento Gas & Electric Co. (1910) 158 Cal. 514, 518. Under general negligence
19 principles, everyone is “obligated to exercise due care in his or her own actions so as not to
20 create an unreasonable risk of injury to others, and this legal duty generally is owed to the class
21 of persons who it is reasonably foreseeable may be injured as the result of the actor’s conduct.”
22 Lugtu v. California Highway Patrol (2001) 26 Cal.4th 703, 716 (emphasis added); Cal. Civ.
23 Code, § 1714; see generally Rest.2d Torts, § 281; Prosser & Keeton on Torts (5th ed. 1984) § 31,
24 p. 169; 3 Harper, et al., The Law of Torts (2d ed. 1986) § 18.2, 654-655.

25 41. Prior to and at said times and places, said Defendants, and each of them,
26 respectively, caused certain asbestos- and silica-containing insulation and other asbestos-
27 products, other building materials, products and toxic substances to be constructed, installed,
28 maintained, used, supplied, replaced, repaired, disturbed, swept, and/or vacuumed on each of the

1 aforesaid respective premises, by their own workers and/or by various unqualified or unskilled
2 contractors, and caused the release of dangerous quantities of toxic asbestos fibers and other
3 toxic substances into the ambient air and thereby created a hazardous and unsafe condition to
4 plaintiff YSIDRO LIMON, SR. and other persons exposed to said asbestos fibers and toxic
5 substances while present at said premises.

6 42. At all times mentioned herein, said Defendants, and each of them, failed to use
7 ordinary care to prevent harm to themselves or to others, negligently acted or failed to act,
8 negligently did something that a reasonably careful person would not do in the same situation,
9 negligently failed to do something that a reasonably careful person would do in the same
10 situation.

11 43. At all times mentioned herein, said Defendants, and each of them, knew or in the
12 exercise of ordinary and reasonable care should have known, that the foregoing conditions and
13 activities created a dangerous, hazardous, and unsafe condition and unreasonable risk of harm
14 and personal injury to plaintiff and other workers or persons so exposed while present on each of
15 the aforesaid respective premises.

16 44. At all times relevant herein, plaintiff entered said premises and used or occupied
17 each of said respective premises as intended and for each of the respective Defendants' benefit
18 and advantage and at each of the respective Defendants' request and invitation. In so doing,
19 plaintiff was exposed to dangerous quantities of asbestos fibers and other toxic substances
20 released into the ambient air by the aforesaid hazardous conditions and activities managed,
21 maintained, initiated, and/or otherwise created, controlled, or caused by said Defendants, and
22 each of them.

23 45. At all times relevant herein, contractors received copies of the General Industry
24 Safety Orders promulgated pursuant to California Labor Code § 6400 and the California
25 Administrative Code under the Division of Industrial Safety, Department of Industrial Relations,
26 including but not limited to Title VIII, Group 9 (Control of Hazardous Substances), Article 81,
27 §§ 4150, 4106, 4107, and 4108, and Threshold Limit Values as documented for asbestos and
28 other toxic substances under Appendix A, Table 1 of said Safety Orders; additionally, California

1 Health and Safety Code § 40.200, *et seq.*, when provided materials for the State of California
2 contractor license examination.

3 46. Plaintiff at all times was unaware of the hazardous condition or the risk of
4 personal injury created by the aforesaid presence and use of asbestos products and materials and
5 other toxic substances on said premises.

6 47. At all times mentioned herein, said Defendants, and each of them, remained in
7 control of the premises where plaintiff was performing his work.

8 48. At all times mentioned herein, said Defendants, and each of them retained control
9 over safety and other related conditions and circumstances at plaintiff's job site(s) and
10 affirmatively contributed to and exercised, or failed to exercise, that control in a manner that
11 caused plaintiff's injuries from asbestos-containing products and conduct.

12 49. At all times mentioned herein, the Defendants owed to plaintiff YSIDRO LIMON,
13 SR. and others similarly situated a duty to exercise ordinary care in the management of such
14 premises in order to avoid exposing workers such as plaintiff to an unreasonable risk of harm and
15 to avoid causing injury to said person, and said Defendants breached such duty.

16 50. At all times mentioned herein, said Defendants, and each of them, knew, or in the
17 exercise of ordinary and reasonable care should have known, that the premises that were in their
18 control would be used without knowledge of, or inspection for, defects or dangerous conditions
19 and that the persons present and using said premises would not be aware of the aforesaid
20 hazardous conditions to which they were exposed on the premises.

21 51. At all times mentioned herein, said Defendants, and each of them, negligently
22 failed to maintain, manage, inspect, survey, or control said premises or to abate or correct, or to
23 warn plaintiff of, the existence of the aforesaid dangerous conditions and hazards on said
24 premises.

25 52. Prior to and at the times and places aforesaid, said Defendants, and each of them,
26 respectively, caused certain asbestos- and silica-containing insulation and other asbestos-
27 products, other building materials, products and toxic substances to be constructed, installed,
28 maintained, used, replaced, disturbed, cleaned up, and/or repaired on each of their aforesaid

1 respective premises, by their own workers and/or by employing various contractors, and caused
2 the release of dangerous quantities of toxic asbestos fibers and other toxic substances into the
3 ambient air and thereby injured plaintiff.

4 53. At all times mentioned herein, said Defendants, and each of them:

5 a. Should have recognized that the work of said contractors would create during
6 the progress of the work, dangerous, hazardous, and unsafe conditions which could or would
7 harm plaintiff YSIDRO LIMON, SR. and others unless special precautions were taken;

8 b. Knew or had reason to know, that the contractors it had selected and hired to
9 install, remove, abate or otherwise handle asbestos-containing materials were unfit, unskilled or
10 otherwise unqualified to do so;

11 c. Failed to use reasonable care to discover whether the contractors it selected and
12 hired to install, remove, abate or otherwise handle asbestos-containing materials were competent
13 or qualified to do so.

14 54. In part, plaintiff YSIDRO LIMON, SR. was exposed to dangerous quantities of
15 asbestos fibers and other toxic substances by reason of such contractors' failure to take the
16 necessary precautions.

17 55. The work of contractors on premises controlled by the Defendants created an
18 unsafe premise and an unsafe work place by reason of the release of dangerous quantities of toxic
19 substances including but not limited to asbestos.

20 56. The unsafe premise or work place was created, in part, by the negligent conduct of
21 the contractors employed by the Defendants. Said negligent conduct includes but is not limited
22 to:

23 a. Failure to warn of asbestos and other toxic dusts;

24 b. Failure to suppress the asbestos-containing or toxic dusts;

25 c. Failure to remove the asbestos-containing and toxic dusts through use of
26 ventilation or appropriate means;

27 d. Failure to provide adequate breathing protection, i.e., approved respirators
28 or masks;

- 1 e. Failure to inspect and/or test the products and/or the air;
- 2 f. Failure to provide medical monitoring;
- 3 g. Failure to select and hire a careful and competent contractor or
- 4 subcontractor;
- 5 h. Failure to follow the applicable General Industry Safety Orders;
- 6 i. Failure to keep abreast of the scientific and medical knowledge regarding
- 7 potential hazards of asbestos and asbestos products available at the time.
- 8 j. Failure to discharge their duty of ordinary care to avoid injury to others
- 9 under the circumstances according to proof at trial.

10 57. The Defendants' duty to maintain and provide safe premises, a safe place to work,

11 and to warn of dangerous conditions are non-delegable; said duties arise out of common law,

12 Civil Code § 1714, and Labor Code § 6400, *et seq.*, or Health and Safety Code § 40.200, *et seq.*,

13 Cal-OSHA provisions, local air quality regulations, and regulations promulgated thereunder.

14 Civil plaintiffs may use safety regulations non-retroactively to show a standard of care, even

15 though the defendant is not their employer. Elsner v. Uveges (2004) 34 Cal.4th 915, 935-936;

16 Millard v. Biosources, Inc. (2007) 156 Cal.App.4th 1338, 1348-1352; Tverberg v. Fillner

17 Construction, Inc. (2011) 193 Cal.App.4th 1121, 1130. Therefore, the Defendants are

18 responsible for any breach of said duties whether by themselves or others.

19 58. Prior to and at said times and places, said Defendants were subject to certain

20 ordinances, statutes, and other government regulations promulgated by the United States

21 Government, the State of California, and others, including but not limited to the General Industry

22 Safety Orders promulgated pursuant to California Labor Code § 6400 and the California

23 Administrative Code under the Division of Industrial Safety, Department of Industrial Relations,

24 including but not limited to Title VIII, Group 9 (Control of Hazardous Substances), Article 81,

25 §§ 4150, 4106, 4107, and 4108, and Threshold Limit Values as documented for asbestos and

26 other toxic substances under Appendix A, Table 1 of said Safety Orders; additionally, California

27 Health and Safety Code § 40.200, *et seq.*, which empowers for example the South Coast Area Air

28 Quality Management District to promulgate regulations including but not limited to

1 S.C.A.A.Q.M.D., Rule 1403; and empowers the Bay Area Air Quality Management District
2 (B.A.A.Q.D.) to promulgate regulations including, but not limited to B.A.A.Q.D. Regulation 11,
3 Rules 2 and 14, Title 40 Code of Federal Regulations, Chapter 1, Part 61, *et seq.* -- The National
4 Emission Standards for Hazardous Air Pollutants, which required said Defendants to provide
5 specific safeguards or precautions to prevent or reduce the inhalation of asbestos dust and other
6 toxic fumes or substances; and said Defendants failed to provide the required safeguards and
7 precautions, or contractors employed by the Defendants failed to provide the required safeguards
8 and precautions. Defendants' violations of said codes include but are not limited to:

- 9 (a) Failing to comply with statutes and allowing ambient levels of airborne
10 asbestos fiber to exceed the permissible/allowable levels with regard to the aforementioned
11 statutes;
- 12 (b) Failing to segregate work involving the release of asbestos or other toxic
13 dusts;
- 14 (c) Failing to suppress dust using prescribed ventilation techniques;
- 15 (d) Failing to suppress dust using prescribed "wet down" techniques;
- 16 (e) Failing to warn or educate plaintiff or others regarding asbestos or other
17 toxic substances on the premises;
- 18 (f) Failing to provide approved respiratory protection devices;
- 19 (g) Failing to ensure "approved" respiratory protection devices were used
20 properly;
- 21 (h) Failing to provide for an on-going health screening program for those
22 exposed to asbestos on the premises;
- 23 (i) Failing to provide adequate housekeeping and clean-up of the work place;
- 24 (j) Failing to properly warn of the hazards associated with asbestos as
25 required by these statutes;
- 26 (k) Failing to properly report renovation and disturbance of asbestos-
27 containing materials, including but not limited to the local air quality management district;
- 28 (l) Failing to have an asbestos removal supervisor as required by regulation;

- (m) Failing to get approval for renovation as required by statutes;
 - (n) Failing to maintain records as required by statute;
 - (o) Failing to exercise ordinary care to avoid injury to others;
 - (p) Failing to test for asbestos content and/or release;
 - (q) Failing to retrofit; and
 - (r) Failing to recall.

59. These Defendants, and each of them, were the "statutory employer" of plaintiff as defined by the California Labor Code and California case law.

9 60. Plaintiff at all times was unaware of the hazardous condition or the risk of
10 personal injury created by defendants' violation of said regulations, ordinances or statutes.

11 61. At all times mentioned herein, plaintiff was a member of the class of persons
12 whose safety was intended to be protected by the regulations, statutes or ordinances described in
13 the foregoing paragraphs.

14 62. At all times mentioned herein, said Defendants, and each of them, knew, or in the
15 exercise of ordinary and reasonable care should have known, that the premises that were in their
16 control would be used without knowledge of, or inspection for, defects or dangerous conditions,
17 that the persons present and using said premises would not be aware of the aforesaid hazardous
18 conditions to which they were exposed on the premises, and that such persons were unaware of
19 the aforesaid violations of codes, regulations and statutes.

63. As a legal consequence of the foregoing, plaintiff YSIDRO LIMON, SR.
developed an asbestos-related illness, which has caused great injury and disability as previously
set forth, and plaintiff has suffered damages as herein alleged.

WHEREFORE, plaintiff prays judgment against defendants, their "alternate entities," and each of them, as hereinafter set forth.

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FOURTH CAUSE OF ACTION
Aiding and Abetting Battery
[Against Metropolitan Life Insurance Company
and Does 750-790, [Inclusive]]

AS AND FOR A FURTHER, FOURTH, SEPARATE AND DISTINCT CAUSE OF ACTION FOR AIDING AND ABETTING BATTERY, PLAINTIFF COMPLAINS OF DEFENDANTS METROPOLITAN LIFE INSURANCE COMPANY, DOES 750-790, THEIR ALTERNATE ENTITIES AND EACH OF THEM, AND ALLEGES AS FOLLOWS:

64. Plaintiff incorporates herein by reference, as though fully set forth hereat, each and every allegation of the First and Second Causes of Action as though fully set forth herein.

65. This cause of action is for the aiding and abetting of battery by METROPOLITAN LIFE INSURANCE COMPANY ("MET LIFE"), primarily through its assistant medical director Anthony Lanza, M.D., of a breach of duty committed by Johns-Manville Corporation ("J-M").

66. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned defendant MET LIFE was and is a corporation organized and existing under and by virtue of the laws of the State of New York or the laws of some other state or foreign jurisdiction, and that this defendant was and is authorized to do and/or was and is doing business in the State of California, and regularly conducted or conducts business in the County of San Francisco, State of California. At times relevant to this cause of action, MET LIFE was an insurer of J-M.

67. Plaintiff, was exposed to asbestos-containing dust created by the use of the asbestos products manufactured, distributed and/or supplied by J-M. This exposure to the asbestos or asbestos-related products supplied by J-M caused Plaintiff's asbestos-related disease and injuries.

68. Starting in 1928, MET LIFE sponsored studies of asbestos dust and asbestos-related disease in Canadian mines and mills, including those of J-M. Those studies revealed that miners and mill workers were contracting asbestosis at relatively low levels of dust. McGill University, which conducted the studies, sought permission from MET LIFE to publish the results but they were never published. MET LIFE prepared its own report of these studies.

11

1 69. Between 1929 and 1931, MET LIFE studied dust levels and disease at five U.S.
2 plants manufacturing asbestos-containing products, including a J-M plant. Those studies showed
3 that workers in substantial numbers were contracting asbestosis, at levels less than what became
4 the Threshold Limit Value ('TLV') of 5mppcf. The MET LIFE report was never published or
5 disseminated except to plant owners, including J-M.

6 70. In 1932, MET LIFE studied dust levels and disease at the J-M plant at Manville,
7 New Jersey. Results were consistent with those of the Canadian and previous U.S. plant studies.
8 They were never published.

9 71. In 1934, J-M and others whose plants MET LIFE had studied agreed with MET
10 LIFE that it should issue a report of its studies.

11 72. MET LIFE submitted a draft of its report to J-M. J-M requested, for legal and
12 business reasons, that certain critical parts of the draft be changed. MET LIFE's official in
13 charge was Lanza. MET LIFE through Lanza did make changes that J-M requested, including:

- 14 (a) Deletion of MET LIFE's conclusion that the permissible dust level for asbestos
15 should be less than that for silica;
- 16 (b) Addition of the phrase that asbestosis clinically appeared to be milder than
17 silicosis.

18 The report, thus altered, was published in 1935. It was misleading, and intentionally so, because
19 it conveyed the incorrect propositions that asbestosis was a less serious disease process than
20 silicosis and that higher levels of asbestos dust could be tolerated without contracting diseases
21 than was the case for silica dust.

22 73. MET LIFE had a close relationship with J-M. It invested money in J-M. It
23 provided group health and life insurance to J-M. MET LIFE IN 1934 agreed to supply industrial
24 hygiene services to J-M, including dust counts, training employees to monitor dust levels,
25 examining employees, and recommending protective equipment. MET LIFE and Lanza were
26 viewed as experts on industrial dusts.

27 ///

28 ///

1 74. In 1933, MET LIFE through Lanza issued the following advice to J-M:
2 (a) Disagreeing with the recommendation of a J-M plant physician, MET LIFE
3 advised against warning workers of the fact that asbestos dust is hazardous to their
4 health, basing its advice in view of the extraordinary legal situation;
5 (b) When the plant physician judged the best disposition of an employee with
6 asbestosis was to remove him from the dust, MET LIFE advised instead that
7 disposition should depend on his age, nature of work and other factors and to
8 leave him alone if he is old and showing no disability, for, MET LIFE stated,
9 economic and production factors must be balanced against medical factors.

10 75. J-M followed the MET LIFE advices and did not warn its workers, including
11 plaintiff, of the hazards of asbestos dust, and J-M also intentionally refrained from notifying
12 workers of their disease.

13 76. In 1936, MET LIFE, J-M and others founded the Air Hygiene Foundation
14 ("AHF"). One of the AHF purposes was to develop standards for dust levels that would serve as
15 a defense in lawsuits and workers' compensation claims.

16 77. MET LIFE funded partially another study that tentatively recommended in 1938 a
17 TLV for asbestos dust of 5mpccf, the same as for silica dust. MET LIFE was aware of data from
18 its own, unpublished reports that showed that level was too high for asbestos dust. MET LIFE
19 nonetheless promoted that TLV as proper.

20 78. In June 1947, the Industrial Hygiene Foundation ("IHF") which succeeded to the
21 AHF, issued a report of studies by Dr. Hemeon of U.S. asbestos plants, including a J-M plant.
22 That report showed that workers exposed to less than the recommended maximum levels of dust
23 were developing disease. MET LIFE was a member of the IHF and Lanza was on its medical
24 committee. The Hemeon report, which was supplied to J-M and other owners, never was
25 published.

26 79. In 1936, J-M and other asbestos companies agreed with a leading medical
27 research facility, Saranac Laboratories, that Saranac would research asbestos disease, but J-M
28 and the others retained control over publication of the results. In 1943 Saranac's Dr. Leroy

1 Gardner, in charge of the research, sent a draft to J-M that revealed that 81.8% of mice exposed
2 to long fiber asbestos contracted cancer.

3 80. Dr. Gardner died in 1946. J-M and other companies wanted parts of the Saranac
4 results published and enlisted the assistance of MET LIFE's Lanza. J-M and other companies
5 decided that Saranac's findings of cancer caused by asbestos in mice must be deleted, as well as
6 Saranac's critique of existing dust standards. Lanza directed Saranac to delete the offending
7 materials. Saranac did so, and the altered report was published in 1951 by Saranac's Dr.
8 Vorwald, in the *AMA Archives of Industrial Hygiene*.

9 81. Lanza left MET LIFE at the end of 1948, and took a position at New York
10 University, funded by MET LIFE. He continued to misrepresent that asbestos does not cause
11 cancer into the 1950s.

12 82. The IHF (formerly AHF), of which MET LIFE was a member and MET LIFE
13 official was on its medical committee, through Drs. Braun and Truan conducted a study of
14 Canadian miners. The original report, in 1957, found an increased incidence of lung cancer in
15 persons exposed to asbestos. The sponsors, including J-M, caused those findings to be stricken,
16 and the report published in 1958 contained the false conclusion that asbestos exposure alone did
17 not increase the risk of lung cancer.

18 83. The false and misleading reports that a link between asbestos exposure and cancer
19 was not proven influenced the TLV, for if a substance causes cancer the TLV must be very low
20 or zero.

21 84. J-M not later than 1933 was inflicting asbestos dust on its workers in its plants
22 knowing that the dust was hazardous and was causing workers to contract disease that could and
23 would disable and kill them. As MET LIFE advised, J-M did not warn its workers of the hazard.
24 J-M committed battery on workers in its plants, including plaintiff, by that conduct.

25 85. MET LIFE knew that J-M's conduct constituted a breach of its duties to its
26 workers. MET LIFE gave substantial assistance to J-M in committing batteries on its workers,
27 including plaintiff, through MET LIFE's conduct described above, including by:
28 //

- (a) Affirmatively urging J-M not to warn workers of the hazards of asbestos dust, in view of the extraordinary legal situation, such that J-M did not warn its workers, including plaintiff;
 - (b) Deleting the findings of its own draft report that the allowable limits for asbestos dust should be less than those for silica dust, and promoting a false and unsafe TLV which specified maximum levels of silica dust, and promoting a false and unsafe TLV which specified maximum levels of dust for workers, including plaintiff, which MET LIFE knew was wrong through its own studies;
 - (c) Advising J-M to keep certain workers continuing to work at dusty areas in the plant even after J-M was aware that their lungs showed asbestos-induced changes, lest other workers including plaintiff be alerted to the dangers of working in the dust.

WHEREFORE, plaintiff prays judgment against defendants, their ALTERNATE ENTITIES, and each of them, as hereinafter set forth.

FIFTH CAUSE OF ACTION
(Concert of Action)

AS AND FOR A FURTHER, SEPARATE AND DISTINCT CAUSE OF ACTION FOR CONCERT OF ACTION IN THE COMMISSION, ENCOURAGEMENT, AND ASSISTANCE OF BREACH OF DUTY TO WARN, PLAINTIFF COMPLAINS OF DEFENDANTS METROPOLITAN LIFE INSURANCE COMPANY, HONEYWELL INTERNATIONAL, INC., DOES 451-471, THEIR ALTERNATE ENTITIES, AND EACH OF THEM (hereinafter CONCERT OF ACTION DEFENDANTS), AND ALLEGES AS FOLLOWS:

86. Plaintiff incorporates herein by reference, as though fully set forth hereat each and every allegation of the First, Second and Fourth Causes of Action.

87. The concerted action (hereinafter referred to as "concerted action" or "conspiracy") engaged in by the above-named CONCERT OF ACTION DEFENDANTS was facilitated through trade and other organizations including the Friction Materials Standards Institute (FMSI), which was a successor to similar trade organizations known as the Brake Lining

1 Manufacturers' Association, and the Clutch Facing and Brake Lining Standards Institute.
2 CONCERT OF ACTION DEFENDANTS were, during the times relevant to this cause of action,
3 members of FMSI.

4 88. The Friction Materials Standards Institute was originally incorporated under the
5 name of Clutch Facing and Brake Lining Standards Institute in 1948 as a membership
6 corporation. It included among its avowed purposes: the maintenance and raising of standards of
7 all products manufactured by its members; the collection, assembly and dissemination to
8 members of the friction materials industry scientific, engineering, technological and other
9 relevant information pertaining to the industry; and to cooperate with governmental agencies for
10 the general benefit of the public and the enhancement of the industry.

11 89. Before 1971, CONCERT OF ACTION DEFENDANTS knew that exposure to
12 asbestos dust created grave health risks for those exposed. From 1971 forward, CONCERT OF
13 ACTION DEFENDANTS received additional information distributed through the Friction
14 Materials Standards Institute and through independent sources further confirming and elaborating
15 the serious health risks associated with exposure to airborne asbestos dust.

16 90. CONCERT OF ACTION DEFENDANTS knew that routine practices utilized in
17 the handling and machining of their friction products during their installation and replacement
18 created significant and dangerous quantities of airborne asbestos dust that would expose workers
19 and bystanders to hazardous levels of asbestos.

20 91. CONCERT OF ACTION DEFENDANTS knew that the magnitude of danger
21 posed by asbestos was not widely known by their consumers. CONCERT OF ACTION
22 DEFENDANTS knew that exposure to asbestos dust among their consumers could be eliminated
23 or greatly reduced by adopting different and discrete practices in the handling and machining of
24 products and by instituting specific dust control procedures in their consumers' workplaces.

25 92. Notwithstanding their knowledge of the dangers posed by exposure to asbestos,
26 and notwithstanding their chartered ostensible purpose to cooperate with government agencies
27 for the benefit of the public, CONCERT OF ACTION DEFENDANT members of the Friction
28 Materials Standards Institute undertook concerted action to thwart, avoid, undermine, defeat,

1 compromise, evade, and otherwise dilute regulations, standards, and procedures designed to
2 reduce levels of exposure to asbestos dust and to raise awareness of the hazards of asbestos by
3 consumers and friction materials workers. Such activities include, but are not limited to the
4 following:

5 (a) CONCERT OF ACTION DEFENDANTS, at the urging and encouragement
6 of the Friction Materials Standards Institute presented to the Illinois Pollution Control Board
7 false and unsupportable opposition to a proposed prospective ban on the use of asbestos in
8 friction materials.

9 (b) CONCERT OF ACTION DEFENDANTS continuously undertook concerted
10 action to thwart, avoid, undermine, defeat, compromise, evade, and otherwise dilute OSHA
11 regulations, standards, and procedures aimed at reducing levels of ambient asbestos dust,
12 requiring the use of safety equipment and procedures, and notification of potentially exposed
13 persons of the dangers presented by asbestos dust. CONCERT OF ACTION DEFENDANTS
14 consistently misrepresented the state of science and knowledge to distort and confound public
15 understanding and appreciation of the asbestos hazard, urging a higher level of airborne asbestos,
16 less stringent requirements in the use of safety equipment and procedures, and a reduction in the
17 scope and extent of any required notification regarding the hazards posed by asbestos.

18 (c) CONCERT OF ACTION DEFENDANTS expressly undertook to adopt
19 uniform interpretations of regulations among their membership, which interpretations
20 consistently took the stance of performing at the lowest possible level which could be considered
21 compliant.

22 93. CONCERT OF ACTION DEFENDANT members of the Friction Materials
23 Standards Institute, despite their avowed purpose to encourage and support research into
24 materials and manufacturing processes, expressly declined to pursue a proposed initiative to
25 sponsor jointly funded research into feasible alternatives to asbestos in friction products.

26 94. Even though they knew of the substantial risks and dangers to those who would
27 use or come into contact with their asbestos-containing products, defendants took concerted
28 action by means of explicit and tacit agreements, to delay for a period of years providing

1 notification and adequate warning of these risks and dangers, and to otherwise suppress
2 information about said hazards or otherwise compromise and confound informed consumer
3 appreciation of the asbestos hazards posed by their products.

4 95. Defendants knew that the users of their friction products would handle such
5 products or their by-products in ways that enhanced the risks of dangerous asbestos exposure.
6 Defendants failed to discharge their duty to provide timely and adequate notice of these hazards
7 or of steps that could be taken to eliminate or ameliorate the risks and dangers. Each defendant,
8 in failing to warn of these dangers, gave assistance and encouragement to every other member
9 defendant to likewise fail to warn.

10 96. Defendants provided substantial assistance to one another in maintaining
11 ignorance among consumers as to the full nature and extent of hazards posed by asbestos, and
12 individually breached their duty to warn the consumers and users of their products.

13 97. In addition to the above named defendants in this cause of action, the term
14 CONCERT OF ACTION DEFENDANTS as used herein includes but is not limited to:
15 DEFENDANTS METROPOLITAN LIFE INSURANCE COMPANY, Anthony Lanza, M.D.,
16 Arthur Vorwald, M.D., Leroy Gardner, M.D., Johns-Manville, Raybestos-Manhattan (now
17 Raymark Industries, Inc. [Raymark]), Russell Manufacturing (whose liabilities have been
18 assigned by H.K. Porter Company), Union Asbestos and Rubber Company, Thermoid Company
19 (whose assets and liabilities have been purchased by H.K. Porter Company), Carey-Canada,
20 Quebec Asbestos Corporation, Celotex Corporation, Industrial Hygiene Foundation, Mellon
21 Institute, all members of the Asbestos Textile Institute [ATI], all members of the Friction
22 Materials Standards Institute and its predecessors, and the other entities and individuals
23 identified in this Cause of Action.

24 98. Plaintiff is informed and believes, and thereon alleges, that at all times herein
25 mentioned, the CONCERT OF ACTION DEFENDANTS were and are corporations organized
26 and existing under and by virtue of the laws of the State of California, or the laws of some other
27 state or foreign jurisdiction, and that defendants were and are authorized to do and/or were and
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1 are doing business in the State of California, and that said defendants regularly conducted and/or
2 conducts business in the County of San Francisco, State of California.

3 99. Plaintiff was exposed to asbestos-containing dust created by the use of the
4 asbestos products manufactured, distributed, and/or supplied by one or more of the
5 CONCERT OF ACTION DEFENDANTS named herein. The exposure to the asbestos or
6 asbestos-related products supplied by the one or more of the CONCERT OF ACTION
7 DEFENDANTS caused plaintiff's asbestos-related disease and injuries.

8 100. The CONCERT OF ACTION DEFENDANTS, individually, and as agents of one
9 another and as co-conspirators, agreed and conspired among themselves, with other asbestos
10 manufacturers and distributors, and with certain individuals including, but not limited to Anthony
11 Lanza, M.D. (Lanza) and defendant METROPOLITAN LIFE INSURANCE COMPANY (MET
12 LIFE) to injure the plaintiff in the following fashion (the following is not an exclusive list of the
13 wrongful acts of the conspirators, but a representative list):

14 (a) Beginning in 1929, MET LIFE entered agreements with Johns-Manville
15 and others to fund studies of the affects of asbestos exposure on Canadian asbestos miners.
16 When the data from these studies proved that Canadian asbestos miners were developing
17 asbestosis, MET LIFE, Johns-Manville, and others suppressed its publication; further, Anthony
18 Lanza, M.D. (then a MET LIFE employee) actively misrepresented the results of the Canadian
19 study for many years thereafter to meetings of health care professionals seeking information
20 regarding asbestos exposure.

21 (b) In approximately 1934, CONCERT OF ACTION DEFENDANTS Johns-
22 Manville and MET LIFE, through their agents, Vandiver Brown and attorney J.C. Hobart, and
23 conspirator Raybestos-Manhattan (Raybestos), through its agents, Sumner Simpson and J.
24 Rohrbach, suggested to Dr. Lanza, Associate Director, MET LIFE (insurers of Johns-Manville
25 and Raybestos), that Dr. Lanza publish a study on asbestosis in which Lanza would affirmatively
26 misrepresent material facts and conclusions about asbestos exposure; including but not limited to
27 descriptions of the seriousness of the disease process of asbestosis. The misrepresentation was
28 accomplished through intentional deletion of Dr. Lanza's initial description of asbestosis as

1 "fatal" and through other selective editing that affirmatively misrepresented asbestosis as a
2 disease process less serious than it was known to be by the CONCERT OF ACTION
3 DEFENDANTS. As a result, Lanza's study was published in the medical literature containing
4 said misleading statements in 1935. The CONCERT OF ACTION DEFENDANTS were
5 motivated, in part, to effectuate this fraudulent misrepresentation and fraudulent nondisclosure by
6 the desire to influence proposed legislation to regulate asbestos exposure, to provide a defense in
7 lawsuits involving Johns-Manville, Raybestos, and MET LIFE, as insurer, and to promote the use
8 of their asbestos products.

1 resulting in numerous misstatements of fact regarding the health affects of asbestos exposure
2 being made at scientific meetings.

3 (d) The conspiracy was furthered when on November 11, 1948, when
4 representatives of the following CONCERT OF ACTION DEFENDANTS met at Johns-
5 Manville headquarters: Johns-Manville, American Brakebloc Division of American Brake and
6 Shoe Foundry (defendant Pneumo Abex), defendant Gatke Corporation, Garlock Sealing
7 Technologies, LLC; Keasbey & Mattison Company (then an alter-ego to conspirator Turner &
8 Newall (T&N)), Raybestos (now Raymark), Thermoid Company (whose assets and liabilities
9 were later purchased by H.K. Porter Company), Union Asbestos and Rubber Company,
10 defendant USG and MET LIFE. Defendant U.S. Gypsum did not send a company employee to
11 the meeting, but instead authorized Vandiver Brown of Johns-Manville to represent its interest at
12 the meeting and to take action on its behalf.

13 (e) At the November 11, 1948 meeting, these CONCERT OF ACTION
14 DEFENDANTS, and their representatives, decided to exert their influence to materially alter and
15 misrepresent material facts about the substance of research conducted by Dr. Leroy Gardner at
16 the Saranac Laboratories beginning in 1936. Dr. Gardner's research involved the carcinogenicity
17 of asbestos in mice and also included an evaluation of the health effects of asbestos on humans
18 with a critical review of the then-existing standards for asbestos dust exposure.

19 (f) At this meeting, these CONCERT OF ACTION DEFENDANTS
20 intentionally and affirmatively decided that Dr. Gardner's work should be edited to delete
21 material facts about the cancer-causing propensity of asbestos, the health effects of asbestos on
22 humans and the critique of the dust standards. The CONCERT OF ACTION DEFENDANTS
23 then published these deceptive and fraudulent statements in the medical literature as edited by
24 Dr. Arthur Vorwald, also of the Saranac Laboratories. These CONCERT OF ACTION
25 DEFENDANTS thereby fraudulently misrepresented the risks of asbestos exposure to the public,
26 in general, and the class of persons exposed to asbestos, including the plaintiff.

27 (g) As a direct result of influence exerted by the CONCERT OF ACTION
28 DEFENDANTS, Dr. Vorwald published Dr. Gardner's edited work in the Journal of Industrial

1 Hygiene, AMA Archives of Industrial Hygiene and Occupational Health in 1951 in a form that
2 stressed those portions of Dr. Gardner's work that the CONCERT OF ACTION DEFENDANTS
3 wished stressed, but which omitted reference to human asbestosis and cancer, thereby
4 fraudulently and affirmatively misrepresenting the extent of the risks. The CONCERT OF
5 ACTION DEFENDANTS affirmatively and deliberately disseminated this deceptive and
6 fraudulent Vorwald publication to university libraries, government officials, agencies, and others.

7 (h) Such actions constitute a material affirmative misrepresentation of the
8 total context of material facts involved in Dr. Gardner's work and resulted in creating an
9 appearance that inhalation of asbestos was less of health problem than Dr. Gardner's unedited
10 work indicated.

11 (i) When Dr. Vorwald subsequently tried to publish more complete
12 information regarding Dr. Gardner's animal studies, the CONCERT OF ACTION
13 DEFENDANTS required his discharge from the Saranac Laboratories, denied him permission to
14 publish or complete Gardner's work, and actively discouraged institutions of higher learning from
15 hiring or retaining Dr. Vorwald in any capacity.

16 (j) The following CONCERT OF ACTION DEFENDANTS were members
17 of the trade association known as Quebec Asbestos Mining Association (Q.A.M.A.): Johns-
18 Manville Corporation, Carey-Canada, individually and as successor to Quebec Asbestos
19 Corporation, the Celotex Corporation, successor to Quebec Asbestos Corporation, National
20 Gypsum Company (now known as defendant Asbestos Claims Management Corporation), and
21 Turner & Newall (T&N), individually and successor to defendant Bell Asbestos Mines Ltd.
22 These conspirators, members of Q.A.M.A., participated in the above-described misrepresentation
23 of the work of Dr. Leroy Gardner published by Dr. Arthur Vorwald in the AMA Archives of
24 Industrial Health in 1951. Evidence of the Q.A.M.A.'s involvement in this misrepresentation
25 arises from co-conspirator Johns-Manville's membership of the Q.A.M.A., as well as
26 correspondence from co-conspirators dated 1/29/47, 11/26/47, 3/6/48, 10/15/48, 3/8/49, and
27 9/6/50, all indicating close monitoring of the editing process of Q.A.M.A.'s representative, Ivan
28 Sabourin, acting on behalf of all Q.A.M.A. members.

8 (l) This plan of misrepresentation and influence over the medical literature
9 began on or about 1950 when the aforementioned Q.A.M.A. members selected Saranac
10 Laboratories to do an evaluation of whether cancer was related to asbestos. After a preliminary
11 report authored by Dr. Arthur Vorwald in 1952 indicated that a cancer/asbestos relationship
12 might exist in experimental animals, these Q.A.M.A. members refused to further fund the study,
13 terminated the study, and prevented any public discussion of dissemination of the results.

14 (m) As a result of the termination of Q.A.M.A./Saranac study, the CONCERT
15 OF ACTION DEFENDANTS fraudulently withheld information from the public and
16 affirmatively misrepresented to the public and responsible legislative and regulatory bodies that
17 asbestos did not cause cancer, including affirmative misrepresentations by CONCERT OF
18 ACTION DEFENDANTS and CONCERT OF ACTION DEFENDANTS' agents K.W. Smith,
19 M.D., Paul Cartier, M.D., A.J. Vorwald, M.D., Anthony Lanza, M.D., Vandiver Brown, and Ivan
20 Sabourin, said misrepresentations being directed to inter alia, U.S. Government officials,
21 Canadian government officials, U.S. National Cancer Institute, medical organizations, health
22 professionals, and the general public, including plaintiff.

(n) Subsequently, the Q.A.M.A. CONCERT OF ACTION DEFENDANTS contracted with the Industrial Hygiene Foundation and Dr. Daniel Braun to further study the relationship between asbestos exposure, asbestosis and lung cancer. In 1957, Drs. Braun and Truan (Braun and Truan) reported to the Q.A.M.A. that asbestosis did increase a worker's risk of incurring lung cancer.

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7 (p) By falsifying and causing publication of studies concluding that asbestos
8 exposure did not cause lung cancer and simultaneously omitting documented findings that
9 asbestosis did increase the risk of lung cancer, the CONCERT OF ACTION DEFENDANTS
10 affirmatively misrepresented to the public and concealed from the public the extent of risks
11 associated with inhalation of asbestos fibers.

12 (q) In furtherance of the ongoing 1929 conspiracy, in approximately 1958,
13 these Q.A.M.A. CONCERT OF ACTION DEFENDANTS publicized the fraudulently edited
14 works of Drs. Braun and Truan at a symposium in an effort to misrepresent fraudulently to the
15 public and persons exposed to asbestos that the inhalation of asbestos dust would not cause
16 cancer.

17 (r) The fraudulent misrepresentations beginning in 1929 as elaborated above
18 and continuing with the publication of the 1958 Braun/Truan study influenced the standards set
19 for asbestos exposure. The developers of such standards failed to lower the maximum exposure
20 limits because a cancer risk, associated with asbestos inhalation, but had not been proven.

21 (s) In furtherance of the 1929 conspiracy, in 1967, Q.A.M.A. CONCERT OF
22 ACTION DEFENDANTS decided, at their trade association meeting, that they would
23 intentionally mislead consumers about the extent of risks involved in inhalation of asbestos
24 products.

1 Newall (T&N), Raybestos-Manhattan (now Raymark), and Q.A.M.A. members by way of their
2 agents, Cartier, Sabourin and LaChance.

3 (u) At the 1952 Saranac meeting, the occurrence of lung cancer and asbestosis
4 in product users was discussed and the carcinogenic properties of all fiber types of asbestos was
5 also discussed. In an affirmative attempt to mislead the public about the extent of health risks
6 associated with asbestos, and in an effort fraudulently to conceal those risks from the public, these
7 CONCERT OF ACTION DEFENDANTS conspired to prevent publication of the record of this
8 1952 Saranac Symposium and it was not published. In addition, the CONCERT OF ACTION
9 DEFENDANTS induced Dr. Vorwald not to announce the results of his and Dr. Gardner's animal
10 studies showing excess cancers in animals which thereby fraudulently misrepresented existing
11 secret data which could not be publicized owing to the secrecy provisions contained in the 1936
12 Saranac agreement heretofore described.

13 (v) The following CONCERT OF ACTION DEFENDANTS were members
14 of the trade organization known as the Asbestos Textile Institute (ATI): Raybestos (now
15 Raymark), Johns-Manville, H.K. Porter, Gatke Corporation; Garlock Sealing Technologies,
16 LLC; Keasbey & Mattison, individually and through its alter-ego Turner & Newall (T&N) and
17 National Gypsum (defendant Asbestos Claims Management Corporation), Uniroyal, Inc.,
18 individually and through its alter-egos, CDU Holding Company, Uniroyal Holding Company and
19 Uniroyal Goodrich Tire Company.

20 (w) In furtherance of the forgoing conspiracy, in 1947, these CONCERT OF
21 ACTION DEFENDANTS, members of the ATI, received a report from industrial hygienist
22 W.C.L. Hemeon (Hemeon) regarding asbestos, which suggested re-evaluation of the then-
23 existing maximum exposure limits for asbestos exposure. These CONCERT OF ACTION
24 DEFENDANTS caused the Hemeon report not to be published and thereby fraudulently
25 concealed material facts about asbestos exposure from the public and affirmatively
26 misrepresented to the public and class of persons exposed to asbestos that the then existing
27 maximum exposure limit for asbestos was acceptable. Thereafter, these CONCERT OF
28 ACTION DEFENDANTS withheld additional material information on the dust standards from

1 The American Conference of Governmental Industrial Hygienists (ACGIH), thereby further
2 influencing evaluations of their Threshold Limit Values for asbestos exposure.

3 (x) In furtherance of the forgoing conspiracy, in 1953, CONCERT OF
4 ACTION DEFENDANT National Gypsum (Asbestos Claims Management Corporation),
5 through its agents, in response to an inquiry from the Indiana Division of Industrial Hygiene
6 regarding health hazards of asbestos spray products, refused to mail a proposed response to that
7 division indicating that respirators should be worn by applicators of the products. National
8 Gypsum's response distorted and fraudulently misrepresented the need for applicators of asbestos
9 spray products to wear respirators and fraudulently concealed from such applicators the need for
10 respirators and thereby misrepresented the risks associated with asbestos exposure.

11 (y) In furtherance of the forgoing conspiracy, in 1955, CONCERT OF
12 ACTION DEFENDANT Johns-Manville, through its agent Dr. Kenneth Smith, caused to be
13 published in the AMA Archives of Industrial Health, an article entitled "Pulmonary Disability in
14 Asbestos Workers." This published study materially altered the results of an earlier study in
15 1949 concerning the same set of workers. This alteration of Dr. Smith's study constituted a
16 fraudulent and material misrepresentation about the extent of the risk associated with asbestos
17 inhalation.

18 (z) In furtherance of the forgoing conspiracy, in 1955, the National Cancer
19 Institute held a meeting at which CONCERT OF ACTION DEFENDANT Johns-Manville,
20 individually and as an agent for other co-conspirators and Dr. Vorwald, as agent of CONCERT
21 OF ACTION DEFENDANTS, affirmatively misrepresented that there was no existing animal
22 studies concerning the relationship between asbestos exposure and cancer, when, in fact, the
23 CONCERT OF ACTION DEFENDANTS were in secret possession of several suppressed
24 studies, which demonstrated that positive evidence did exist.

25 (aa) In furtherance of the forgoing conspiracy, in 1957, these CONCERT OF
26 ACTION DEFENDANTS and members of the ATI, jointly rejected a proposed research study on
27 cancer and asbestos and this resulted in fraudulently concealing from the public material facts
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1 regarding asbestos exposure, and also constituted an affirmative misrepresentation of the then-
2 existing knowledge about asbestos exposure and lung cancer.

3 (bb) In furtherance of the forgoing conspiracy, in 1964, CONCERT OF
4 ACTION DEFENDANTS who were members of the ATI met to formulate a plan for rebutting
5 the association between lung cancer and asbestos exposure that had been recently published by
6 Dr. Irving J. Selikoff of the Mount Sinai Research Center. Thereafter, these members of the ATI
7 embarked upon a campaign to further misrepresent the association between asbestos exposure
8 and lung cancer.

9 (cc) CONCERT OF ACTION DEFENDANT Mellon Institute and CONCERT
10 OF ACTION DEFENDANT Industrial Hygiene Foundation (IHF) were institutes whose
11 functions included involvement in research regarding the health effects of inhaling asbestos dust.

12 (dd) Beginning in the early 1940's, the IHF was involved in a study by Hemeon
13 entitled Report of Preliminary Dust Investigation for Asbestos Textile Institute, June 1947. This
14 study was done in connection with members of the Asbestos Textile Institute (ATI). This study
15 found that workers exposed to less than the recommended maximum exposure level for asbestos
16 were nonetheless developing disease. As a part of the conspiracy, the IHF never published this
17 study.

18 (ee) Beginning in the mid 1950's, the IHF and the Mellon Institute were
19 involved in the publication of works by Braun and Truan entitled An Epidemiological Study of
20 Lung Cancer in Asbestos Miners. In its original, unedited form in September, 1957, this study
21 had concluded that workers with asbestosis had an increased incidence of lung cancer and that
22 the Canadian government had been under-reporting cases of asbestosis. The final, published
23 version of this study in June 1958, deleted the conclusion that workers with asbestosis suffered
24 an increased incidence of lung cancer and that the Canadian government had been under-
25 reporting asbestosis cases. The IHF and the Mellon Institute conspired with the members of the
26 Quebec Asbestos Mining Association (Q.A.M.A.) and their legal counsel, Ivan Sabourin, and
27 other CONCERT OF ACTION DEFENDANTS to delete the above-described information
28 regarding asbestos and cancer.

(ff) The above-described actions of the IHF and the Mellon Institute constituted intentional deception and fraud in actively misleading the public about the extent of the hazards connected with breathing asbestos dust.

8 (hh) All CONCERT OF ACTION DEFENDANTS identified above, approved,
9 ratified, and furthered the previous conspiratorial acts of CONCERT OF ACTION
10 DEFENDANTS Johns-Manville, Raybestos (now Raymark), Lanza, and MET LIFE, and all the
11 alleged co-conspirators during the date and circumstances set forth above, acted as agents, and
12 co-conspirators for the other CONCERT OF ACTION DEFENDANTS.

19 (jj) Further as evidence of the fraud, concealment, suppression, and
20 conspiratorial misconduct of the members of the Asbestos Textile Institute as herein set forth, the
21 ATI and the Industrial Hygiene Foundation kept minutes of their regular meetings, discussions,
22 resolutions, and related actions, recorded in "The ATI Minutes."

23 (kk) MET LIFE was an active participant in the foregoing conspiracy and
24 benefitted thereby. MET LIFE benefitted from its involvement, because of the following non-
25 exclusive list:

26 (1) by providing workers' compensation insurance to the CONCERT OF
27 ACTION DEFENDANTS.

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- (2) by providing life insurance for employees of the CONCERT OF ACTION DEFENDANTS;
 - (3) by providing health insurance or health care for the employees of the CONCERT OF ACTION DEFENDANTS;
 - (4) by providing health information and resources;
 - (5) by purchasing substantial stock in asbestos-related companies, including stock of CONCERT OF ACTION DEFENDANTS; and
 - (6) by developing information by which asbestos-related claims for compensation could be defeated.

10 101. The foregoing conspiracy was furthered through the formation of the Friction
11 Materials Standards Institute [FMSI] and its predecessors, the Brake Lining Manufacturers'
12 Association, and the Clutch Facing and Brake Lining Standards Institute. The members thereof
13 joined with, ratified, and furthered the conspiratorial actions of the above-identified conspirators.

1 Corporation). By 1973, the following joined the Friction Materials Standards Institute:
2 CONCERT OF ACTION DEFENDANTS Auto Friction Corporation, Auto Specialties
3 Manufacturing Company, Chrysler Corporation, Emsco Asbestos Company, Forcee
4 Manufacturing Corporation, General Motors Corporation, H.K. Porter Company (through its
5 Thermoid division), Johns-Manville Corporation, Lear-Siegler, Inc. (now Lear-Siegler
6 Diversified Holdings Corp.) (Through its Predecessor-in-interest Royal Industries), Molded
7 Industrial Friction Corporation, Morton-Thiokol (Through its Predecessor-in-interest Thiokol
8 Chemical Corporation), National Transport Supply Inc., Parker-Hannifin Corporation (through
9 its predecessor-in-interest Pick Manufacturing Company), Pneumo Abex's American Brakeblok
10 division, Silver Line Products Inc., Standco Inc., Universal Friction Materials Company, and
11 Wheeling Brake Block Manufacturing Company. On information and belief, plaintiff alleges
12 that the following manufacturers and/or distributors of asbestos-containing automotive friction
13 products joined with, ratified, and furthered the conspiratorial actions of the above-identified
14 conspirators, including the conspirators who were members of the FMSI and its predecessors:
15 CONCERT OF ACTION DEFENDANTS, The Budd Company, Dana Corporation, Ford Motor
16 Company, General Motors Corporation, Lear-Siegler, Inc. (now Lear-Siegler Diversified
17 Holdings Corp.), Morton-Thiokol (now Morton International, Inc.), Standard Motor Products,
18 Inc. (EIS Brand Brakes); and Borg-Warner.

19 (2) Even though they disseminated materials and information to the contrary,
20 The Friction Materials Standards Institute conspirators knew, and suppressed, that:

- 21 (i) OSHA regulations, even if enforced and complied with, would not
22 prevent asbestos disease in workers exposed to their products;
- 23 (ii) chrysotile asbestos caused mesothelioma and other incurable
24 disease;
- 25 (iii) brake workers suffered "considerable exposures" to respirable
26 asbestos fibers during the intended use, installation, and expected
27 replacement of friction materials;

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(iv) there was no "safe" level of occupational exposure to respirable asbestos; and

(v) there was a substantial risk and danger suffered by bystanders and family members of brake mechanics, because of the release of respirable asbestos in the use of friction materials, as herein described.

15 102. The acts and omissions of the CONCERT OF ACTION DEFENDANTS, as
16 described above, and each of them, constitute fraudulent concealment and/or fraudulent
17 misrepresentation, which caused injury to the plaintiff, including, but not limited to, the
18 following manner:

(b) The CONCERT OF ACTION DEFENDANTS, with intent to defraud, individually, as members of a conspiracy, and as agents of other CONCERT OF ACTION DEFENDANTS, intended that the publication of false and misleading reports to the general public and individuals therein, and/or the intentional suppression and nondisclosure of documented reports of health hazards of asbestos:

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- 1 (1) maintain a favorable atmosphere for the continued sale and
2 distribution of asbestos and asbestos-related products;
3 (2) assist in the continued pecuniary gain of CONCERT OF ACTION
4 DEFENDANTS, through the sale of their products;
5 (3) influence in the CONCERT OF ACTION DEFENDANTS' favor
6 proposed legislation to regulate asbestos exposure and;
7 (4) provide a defense in law suits brought for injury resulting from
8 asbestos disease.

9 (c) The CONCERT OF ACTION DEFENDANTS, individually, as members
10 of a conspiracy, and as agents of other CONCERT OF ACTION DEFENDANTS, had a duty to
11 disclose information regarding the health hazards of asbestos within their knowledge and/or
12 control. The CONCERT OF ACTION DEFENDANTS, knowingly, and intentionally breached
13 this duty through their fraudulent concealment as described herein.

14 (d) Plaintiff and others reasonably relied, both directly and indirectly, upon the
15 published medical and scientific data documenting the purported safety of asbestos and asbestos-
16 related products, and in the absence of published medical and scientific reports of the hazards of
17 asbestos continued exposure to asbestos. Plaintiff believed asbestos to be safe and was unaware
18 of the hazards due to conspiratorial and fraudulent conduct. Plaintiff was not warned of the
19 hazards of asbestos dust as a direct result of the above-described conspiracy and fraudulent
20 concealment. If plaintiff had known of the health hazards of asbestos, of which plaintiff was
21 unaware as a direct result of the conspirator's fraudulent concealment, plaintiff would have acted
22 differently regarding plaintiff's exposure to asbestos and asbestos-related products.

23 (e) CONCERT OF ACTION DEFENDANTS, individually, as members of a
24 conspiracy, and as agents of other CONCERT OF ACTION DEFENDANTS, intended that
25 plaintiff rely on the deceptive and fraudulent reports that the conspiracy caused to be published
26 throughout the United States regarding the safety of asbestos and asbestos-related products and to
27 rely on the absence of published medical and scientific data (because of the CONCERT OF
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1 ACTION DEFENDANTS's suppression) regarding the hazards of asbestos and asbestos-related
2 products and thereby caused plaintiff and others to continue their exposure to asbestos products.

3 (f) CONCERT OF ACTION DEFENDANTS, individually, as members of a
4 conspiracy, and as agents of other CONCERT OF ACTION DEFENDANTS were and are in a
5 position of superior knowledge regarding the health hazards of asbestos and therefore the
6 plaintiff reasonably relied, both directly and indirectly, on the published reports commissioned by
7 the CONCERT OF ACTION DEFENDANTS, regarding the health hazards of asbestos and the
8 absence of published information (because of the suppression by the CONCERT OF ACTION
9 DEFENDANTS) regarding the hazards of asbestos and asbestos-related products.

10 (g) As a direct result of the continuing and on-going conduct of the
11 CONCERT OF ACTION DEFENDANTS, as alleged herein, the plaintiff contracted asbestos-
12 related disease and suffered injuries and incurred damages, which are described in greater detail
13 in the forgoing Paragraphs.

14 103. MET LIFE acted in concert with the foregoing described parties (the CONCERT
15 OF ACTION DEFENDANTS) and pursuant to a common design, as previously described, to
16 cause injury to plaintiff.

17 104. MET LIFE knew that the conduct of Johns-Manville, Raybestos (now Raymark),
18 defendant USG, American Brakeblok Corporation (now defendant PNEUMO ABEX), Keasbey-
19 Mattison Company (now T&N), and the other CONCERT OF ACTION DEFENDANTS was
20 coercive, fraudulent, and deceitful towards others (including plaintiff) and that CONCERT OF
21 ACTION DEFENDANTS' conduct was a breach of duties owed to plaintiff; and MET LIFE gave
22 substantial assistance and encouragement to Johns-Manville and the other CONCERT OF
23 ACTION DEFENDANTS in breaching their duties to plaintiff and others.

24 105. MET LIFE provided substantial assistance to the foregoing CONCERT OF
25 ACTION DEFENDANTS in accomplishing their tortious result and their breach of duties to
26 plaintiff.

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1 106. Plaintiff was insured, directly or indirectly, by MET LIFE and as such was owed a
2 fiduciary duty by MET LIFE which duty was breached by its foregoing conduct and conspiracy
3 which thereby caused plaintiff's asbestos-related injuries.

4 107. The CONCERT OF ACTION DEFENDANTS made representations to plaintiff
5 and others concerning asbestos-containing products including but not limited to:

6 (a) the statements set forth and summarized in the foregoing paragraphs
7 (b) that asbestos in commercially used insulation products was not hazardous
8 (this statement was known to be false by the CONCERT OF ACTION DEFENDANTS)

9 (c) the amount of asbestos in the air necessary to cause disease was five
10 million particles per cubic foot (this statement was known to be false by the CONCERT OF
11 ACTION DEFENDANTS)

12 (d) that asbestos does not cause cancer (this statement was known to be false
13 by the CONCERT OF ACTION DEFENDANTS);

14 (e) in addition, the CONCERT OF ACTION DEFENDANTS actively and
15 fraudulently concealed facts from the plaintiff and others including, but not limited to:

- 16 (1) that asbestos-related disease can be a fatal disease,
17 (2) that asbestos causes various forms of lung cancer,
18 (3) that individuals should protect themselves from breathing asbestos
19 dust,
20 (4) the extent of asbestos disease in exposed populations,
21 (5) information regarding the levels of airborne asbestos that can cause
22 disease,
23 (6) their experience with workers' compensation claims related to
24 asbestos exposure,
25 (7) the statements set forth in foregoing paragraphs.

26 108. Further, the CONCERT OF ACTION DEFENDANTS knew that their foregoing
27 statements were false and that, by their acts, they were actively and fraudulently concealing
28 adverse information regarding the health affects of asbestos including the facts set forth above;

1 the CONCERT OF ACTION DEFENDANTS made the false statements and concealed the
2 information with the intent to deceive; plaintiff and others relied both directly and indirectly on
3 the foregoing false statements and their lack of knowledge resulting from their fraudulent
4 concealment, resulting in and causing asbestos-related injuries and damages as more fully set
5 forth herein.

6 109. The asbestos-containing products that CONCERT OF ACTION DEFENDANTS
7 manufactured, marketed, distributed, sold, and otherwise supplied were defective; plaintiff was
8 exposed to asbestos from the CONCERT OF ACTION DEFENDANTS' products, which caused
9 his asbestos-related injuries as more fully set forth in the foregoing paragraphs.

10 110. Additionally and alternatively, as a direct result of MET LIFE's actions and
11 omissions, plaintiff was caused to remain ignorant of all the dangers of asbestos resulting in
12 plaintiff, his agents, employers, and the general public to be aware of the true and full dangers of
13 asbestos, deprive plaintiff of the opportunity to decide for himself whether he wanted to take the
14 risk of being exposed to asbestos, denied plaintiff the opportunity to take precautions against the
15 dangers of asbestos and caused plaintiff's damages herein.

16 WHEREFORE, plaintiff prays judgment against defendants, their ALTERNATE
17 ENTITIES, and each of them, as hereinafter set forth.

18 SIXTH CAUSE OF ACTION
19 (Fraud and Deceit/Concealment)

20 AS AND FOR A FURTHER, SEPARATE AND DISTINCT CAUSE OF ACTION FOR
21 FRAUD AND DECEIT/CONCEALMENT, PLAINTIFF COMPLAINS OF DEFENDANTS
22 METROPOLITAN LIFE INSURANCE COMPANY, DOES 472-480, THEIR ALTERNATE
23 ENTITIES, AND EACH OF THEM (hereinafter FRAUD DEFENDANTS), AND ALLEGES
24 AS FOLLOWS:

25 111. Plaintiff incorporates herein by reference, as though fully set forth hereat, each
26 and every allegation of the First, Second, Fourth and Fifth Causes of Action as though fully set
27 forth herein.

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1 112. The term FRAUD DEFENDANTS as used herein includes but is not limited to:
2 METROPOLITAN LIFE INSURANCE COMPANY, Anthony Lanza, M.D., Johns-Manville,
3 Raybestos-Manhattan (now Raymark Industries, Inc. [Raymark]), United States Gypsum
4 Company [USG]), American Brakeblok Corporation (now Pneumo Abex Corporation [Pneumo
5 Abex]), Keasbey-Mattison Company (now T&N, Ltd. [T&N]), all members of the Asbestos
6 Textile Institute [ATI], American Conference of Industrial Hygienists, Inc., and the other entities
7 and individuals identified in this Cause of Action.

8 113. Plaintiff is informed and believes, and thereon alleges, that at all times herein
9 mentioned, the FRAUD DEFENDANTS were and are corporations organized and existing under
10 and by virtue of the laws of the State of California, or the laws of some other state or foreign
11 jurisdiction, and that defendants were and are authorized to do and/or were and are doing
12 business in the State of California, and that said defendants regularly conducted and/or conducts
13 business in the County of San Francisco, State of California.

14 114. FRAUD DEFENDANT American Conference of Governmental Industrial
15 Hygienists, Inc. (ACGIH) sets guidelines for occupational health called Threshold Limit Values
16 (TLVs). These guidelines are relied on by OSHA (the Occupational Safety and Health
17 Administration) in the United States and similar agencies around the world. Criticisms of the
18 guide-line setting process have pointed to problems with data collection, inadequate research,
19 overwhelming dependence on data supplied by financially interested corporations, and slow
20 response to advances in medical information. In carrying out the aforesaid acts, the ACGIH was
21 negligent in their failure to analyze or critically evaluate previously published literature, or
22 review and incorporate current literature, failure to adequately assess the financially motivated
23 scientific data provided by asbestos corporations, their insurers, and medical consultants, and
24 their limited review process, including but not limited to the following representative list:

25 (a) The NATIONAL CONFERENCE OF GOVERNMENT INDUSTRIAL
26 HYGIENISTS (NCGIH) was formed in 1938. In 1942, the NCGIH began to develop a list of
27 proposed Maximum Permissible Concentrations (MPC) or Maximum Allowable Atmospheric
28 Concentrations, for various hazardous atmospheric substances, including asbestos. In the

1 minutes of the Fifth Annual Meeting in 1942, the MPC Subcommittee internally noted that the
2 MPC's were "not to be construed as recommended safe concentrations." In 1946, the NCGIH
3 was renamed the American Conference of Governmental Industrial Hygienists, Inc. (ACGIH),
4 and despite the internally acknowledged inadequacy of the asbestos MPC or the lack of any
5 research by the ACGIH, they adopted, circulated, represented, and otherwise promulgated a 5
6 million particles per cubic foot (mppcf) asbestos guideline based on a faulty study performed by
7 Dr. W.C. Dreessen in 1938 at a textile plant in North Carolina.

8 (b) In 1947, the ACGIH vaguely defined the MPC as "that amount of gas, vapor,
9 fume, or dust which can be tolerated by man with no bodily discomfort nor impairment of bodily
10 function, either immediate or after years of exposure." In 1948, they changed the name of the
11 guideline from MPC to Threshold Limit Values (TLV), but still failed to adequately define the
12 guideline or verify its propriety or scientific justification. In 1953, they issued a new conflicted
13 definition, describing the guideline as both an "average" and a "maximum." Despite their failure
14 to conduct any new evaluations or research, in 1961, the ACGIH propounded a new definition of
15 the TLV as a "time-weighted average concentration." While arbitrarily adopting and changing
16 the definition of the TLV, the ACGIH never performed any studies to test the scientific validity
17 of the 5 mppcf TLV guideline.

18 (c) In 1968, the ACGIH reviewed the 5 mppcf guideline, and replaced it with a 2
19 mppcf guideline. However, the ACGIH negligently published the new guideline as 12 mppcf,
20 never intending said numeric figure to be the actual recommended guideline. Despite internally
21 acknowledging the error in their annual meetings, the ACGIH did not correct it until 1971.

22 (d) Despite decades of scientific studies linking asbestos to cancer, the ACGIH
23 ignored the carcinogenic dangers of asbestos until 1974.

24 115. Plaintiff was exposed to asbestos-containing dust created by the use of the
25 asbestos products manufactured, distributed and/or supplied by one or more of the
26 FRAUD DEFENDANTS. The exposure to the asbestos or asbestos-related products supplied by
27 the FRAUD DEFENDANTS caused plaintiff's asbestos-related disease and injuries.
28 ///

1 116. Plaintiff incorporates herein by reference, as though fully set forth hereat at, each
2 and every paragraph of the Fifth Cause of Action, which describes the allegations against, and
3 actions of the CONSPIRACY DEFENDANTS.

4 117. Further, the FRAUD DEFENDANTS knew that their foregoing statements were
5 false and that by their acts they were actively and fraudulently concealing adverse information
6 regarding the health affects of asbestos including the facts set forth above; the FRAUD
7 DEFENDANTS made the false statements and concealed the information with the intent to
8 deceive; plaintiff and others relied both directly and indirectly on the foregoing false statements
9 and their lack of knowledge resulting from their fraudulent concealment, resulting in and causing
10 asbestos-related injuries and damages as more fully set forth herein.

11 118. The asbestos-containing products that FRAUD DEFENDANTS manufactured,
12 marketed, distributed, sold, and otherwise supplied were defective; plaintiff was exposed to
13 asbestos from the FRAUD DEFENDANTS' products which caused his asbestos-related injuries
14 as more fully set forth in the foregoing paragraphs.

15 119. Additionally and alternatively, as a direct result of FRAUD DEFENDANT MET
16 LIFE's actions and omissions, plaintiff was caused to remain ignorant of all the dangers of
17 asbestos resulting in plaintiff, his agents, employers, and the general public to be aware of the
18 true and full dangers of asbestos, deprive plaintiff of the opportunity to decide for himself
19 whether he wanted to take the risk of being exposed to asbestos, denied plaintiff the opportunity
20 to take precautions against the dangers of asbestos and caused plaintiff's damages herein.

21 WHEREFORE, plaintiff prays judgment against defendants, their ALTERNATE
22 ENTITIES, and each of them, as hereinafter set forth.

23 SEVENTH CAUSE OF ACTION
24 (Fraud and Deceit/Intentional Misrepresentation)

25 AS AND FOR A FURTHER, SEVENTH, SEPARATE AND DISTINCT CAUSE OF
26 ACTION FOR FRAUD AND DECEIT/INTENTIONAL MISREPRESENTATION, PLAINTIFF
27 COMPLAINS OF DEFENDANTS METROPOLITAN LIFE INSURANCE COMPANY,
28 //

1 DOES 740-750, THEIR ALTERNATE ENTITIES AND EACH OF THEM (hereinafter
2 INTENTIONAL MISREPRESENTATION DEFENDANTS), AND ALLEGES AS FOLLOWS:

3 120. Plaintiff incorporates herein by reference, as though fully set forth hereat, each
4 and every allegation of the First and Second Causes of Action, and each and every paragraph of
5 the Fourth, Fifth and Sixth Causes of Action that describes the allegations against, and actions of
6 the CONSPIRACY DEFENDANT MET LIFE as though fully set forth herein.

7 121. Plaintiff is informed and believes, and thereon alleges, that at all times herein
8 mentioned, the INTENTIONAL MISREPRESENTATION DEFENDANTS were and are corpor-
9 ations organized and existing under and by virtue of the laws of the State of California, or the
10 laws of some other state or foreign jurisdiction, and that defendants were and are authorized to do
11 and/or were and are doing business in the State of California, and that said defendants regularly
12 conducted and/or conducts business in the County of San Francisco, State of California.

13 122. Plaintiff incorporates herein by reference, as though fully set forth hereat, each
14 and every paragraph of the Fifth Cause of Action that describes the allegations against, and
15 actions of the CONSPIRACY DEFENDANT MET LIFE.

16 123. Further, the INTENTIONAL MISREPRESENTATION DEFENDANTS knew
17 that their foregoing statements were false and that by their acts they were actively and
18 fraudulently concealing adverse information regarding the health affects of asbestos including the
19 facts set forth above; the INTENTIONAL MISREPRESENTATION DEFENDANTS made the
20 false statements and misrepresented the information with the intent to deceive; plaintiff and
21 others relied both directly and indirectly on the foregoing false statements and their lack of
22 knowledge resulting from their intentional misrepresentation, resulting in and causing asbestos-
23 related injuries and damages as more fully set forth herein.

24 124. The asbestos-containing products that INTENTIONAL MISREPRESENTATION
25 DEFENDANTS manufactured, marketed, distributed, sold, and otherwise supplied were
26 defective; plaintiff was exposed to asbestos from the INTENTIONAL MISREPRESENTATION
27 DEFENDANTS' products, which caused his asbestos-related injuries as more fully set forth in
28 the foregoing paragraphs.

1 125. Additionally and alternatively, as a direct result of INTENTIONAL
2 MISREPRESENTATION DEFENDANTS MET LIFE's actions and omissions, plaintiff was
3 caused to remain ignorant of all the dangers of asbestos resulting in plaintiff, his agents,
4 employers and the general public to be aware of the true and full dangers of asbestos, deprive
5 plaintiff of the opportunity to decide for himself whether he wanted to take the risk of being
6 exposed to asbestos, denied plaintiff the opportunity to take precautions against the dangers of
7 asbestos and caused plaintiff's damages herein.

8 WHEREFORE, plaintiff prays judgment against defendants, their "alternate entities," and
9 each of them, as follows:

- 10 1. For plaintiff's general damages according to proof;
- 11 2. For plaintiff's loss of income, wages, earning potential, and household services
12 according to proof;
- 13 3. For plaintiff's medical and related expenses according to proof;
- 14 4. For plaintiff's cost of suit herein;
- 15 5. For exemplary or punitive damages according to proof against defendants
16 AMCORD, INC.; CERTAINTEED CORPORATION; GEORGIA-PACIFIC LLC (FKA
17 GEORGIA-PACIFIC CORPORATION); HONEYWELL INTERNATIONAL, INC.; KAISER
18 GYPSUM COMPANY, INC.; and KELLY-MOORE PAINT COMPANY, INC., only;
- 19 6. For damages for fraud according to proof; and
- 20 7. For such other and further relief as the court may deem just and proper, including
21 costs and pre-judgment interest as provided in C.C.P. § 998, C.C.P. § 1032, and related
22 provisions of law.

23 Dated: 12/31/14

BRAYTON PURCELL LLP

24
25 By: 
26 David R. Donadio
27 Attorneys for Plaintiff
28

EXHIBIT A

1 EXHIBIT A

2 Plaintiff's exposure to asbestos and asbestos-containing products occurred at various
3 locations inside the State of California, including but not limited to:

	<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
4	Security Fire Protection Ika Stonebro Corporation	Various Warehouses, Los Angeles area, CA	Sprinkler Fitter	1958-1961
5		Los Angeles County Schools, Los Angeles, CA		
6	Security Fire Protection Ika Stonebro Corporation	Long Beach Memorial Hospital, Long Beach, CA	Sprinkler Fitter	1958-1960
7				
8	Security Fire Protection Ika Stonebro Corporation	Discount Store, Pico Rivera, CA	Sprinkler Fitter	1958-1961
9				
10	Security Fire Protection Ika Stonebro Corporation	Various buildings, Los Angeles, CA and surrounding area	Sprinkler Fitter	1/1960-3/1962
11				
12	Stonebro Corporation 617 S Isis Ave Inglewood, CA	Stonebro Office, Wilmington, CA		6 months
13				
14				
15	Automatic Fire Protection Co 2325 E 55 St Los Angeles, CA	New Construction, Los Angeles, CA and surrounding area	Sprinkler Fitter	1/1962-6/1964
16				
17		Automatic Fire Protection Office, Los Angeles, CA	Designer	6 months
18				
19	Atlas Automatic Sprinkler Co 1311 Glendale Blvd Los Angeles, CA	Public Schools, Los Angeles and Orange County, CA	Sprinkler Fitter	7/1964-6/1965
20				
21	Cosco Fire Protection Inc 16306 S Broadway Gardena, CA		Sprinkler Fitter	7/1965-3/1970; 1/1971-3/1971
22				
23	LKA: Zurn Industries Inc Erie, PA			4/1971-6/1971; 1/1972-6/1972
24		Wilmington Harbor, Wilmington, CA		Late 1960s-Early 1970s
25				
26	///			
27	///			
28	///			

EXHIBIT A

1 EXHIBIT A (cont'd.)

2	3	4	5
<u>Employer</u>	<u>Location of Exposure</u>	<u>Job Title</u>	<u>Exposure Dates</u>
3 Cosco Fire Protection Inc 16306 S Broadway Gardena, CA		Sprinkler Fitter	7/1965-3/1970; 1/1971-3/1971
5 LKA: Zurn Industries Inc Erie, PA			4/1971-6/1971; 1/1972-6/1972
7	8 Arco Plaza (Twin Towers/City National Plaza), Los Angeles, CA		9 Early 1970s (2 weeks)
9 Grinnell Co of Pacific 260 W Exchange St Providence, RI		Sprinkler Fitter	10 4/1968-9/1968
11 LKA: Grinnell Corporation 1 Town Center Rd Boca Raton, FL			12 7/1972-9/1972; 1/1973-1985; 1990
13	14 Pepperdine University, Malibu, CA		
15 Grinnell Co of Pacific 260 W Exchange St Providence, RI		Sprinkler Fitter	16 4/1968-9/1968
17 LKA: Grinnell Corporation 1 Town Center Rd Boca Raton, FL			18 7/1972-9/1972; 1/1973-1985; 1990
19	20 University of California (UCLA), Los Angeles, CA		
21 Cosco Fire Protection Inc 16306 S Broadway Gardena, CA	22 Montclair Plaza Mall, Montclair, CA	Sprinkler Fitter	Late 1960s
23 Cosco Fire Protection Inc 16306 S Broadway Gardena, CA	24 Schubert Theater, Century City, CA	Sprinkler Fitter	Early 1970s
25 Grinnell Corporation 1 Town Center Rd Boca Raton, FL	26 Smith Tool, Costa Mesa, CA	Sprinkler Fitter	Mid-to-Late 1970s
27 Grinnell Corporation 1 Town Center Rd Boca Raton, FL	28 Various Convalescent Homes, Los Angeles, CA	Sprinkler Fitter	Late 1970s
28 ///			EXHIBIT A

1 EXHIBIT A (cont'd.)

2	Employer	3	Location of Exposure	4	Job Title	5	Exposure Dates
6	Grinnell Corporation 1 Town Center Rd Boca Raton, FL	7	American Airlines, Los Angeles International Airport (LAX), Los Angeles, CA	8	Sprinkler Fitter	9	Late 1970s-Early 1980s
10	CF Braun Constructors Inc Alhambra, CA	11	Anheuser-Busch Brewery (Budweiser), Van Nuys, CA	12	Welder (helper)	13	1980
14	Century Sprinkler Corporation 2505 Mira Mar Ave Long Beach, CA	15	Westin Bonaventure Hotel, Los Angeles, CA	16	Sprinkler Fitter (foreman)	17	1987; 1992
18	Ortiz Fire Protection Inc 130 S Highland Ave Fullerton, CA	19	Yorba Linda High School, Yorba Linda, CA	20	Sprinkler Fitter	21	1987-1988
22	Wormald Fire Systems Inc 273 Corporate Dr Portsmouth, NH	23	State Building, downtown Los Angeles, CA	24	Sprinkler Fitter	25	1989 (2 months)

14 NON-OCCUPATIONAL EXPOSURE:

15 FRiction:

16 From approximately 1956 up until the mid 1990s, plaintiff removed and replaced the brakes on a
17 variety of vehicles. Plaintiff recalls removing the original equipment manufacturer's brakes from a
18 1964 VOLKSWAGEN (VOLKSWAGEN GROUP OF AMERICA, INC. (FKA
19 VOLKSWAGEN OF AMERICA, INC.)), a 1969 OLDSMOBILE (GENERAL MOTORS
20 CORPORATION) and a 1983 OLDSMOBILE (GENERAL MOTORS CORPORATION).
21 Plaintiff removed and replaced the brakes on other vehicles, including a 1949 Ford, purchased in
22 1956; a 1974 Ford Ltd.; a 1957 Chevrolet pick-up truck; and a 1954 Chevrolet purchased around
23 1956. Plaintiff also helped his father remove and replace the brakes in a 1939 Chevrolet and a
24 1951 Chevrolet. Plaintiff used a paint brush to clean the residue from the backing plates where
25 the brakes were mounted. Plaintiff recalls purchasing BENDIX (HONEYWELL
26 INTERNATIONAL) brakes from K & R AUTOMOTIVE, East Los Angeles, California. Plaintiff
27 recalls purchasing RAYBESTOS (RAYMARK INDUSTRIES, INC.) disc brakes for installation
28 in the 1983 Oldsmobile.

EXHIBIT A

EXHIBIT B

1 EXHIBIT B
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Plaintiff retired from his last place of employment at regular retirement age. He has therefore suffered no disability from his asbestos-related disease as "disability" is defined in California Code of Civil Procedure § 340.2.

Plaintiff's exposure to asbestos and asbestos-containing products caused severe and permanent injury to the plaintiff, including, but not limited to breathing difficulties and/or other lung damage. Plaintiff was diagnosed with asbestosis on or about May 2007 and asbestos-related pleural disease on or about July 2014.

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EXHIBIT B

EXHIBIT N

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SAN FRANCISCO

3 ---oo---

4 YSIDRO LIMON, SR.,

5 Plaintiff,

6 vs.

NO. CGC-15-276378

7 AMCORD, INC., et al.,

8 Defendants.

9 _____ /

10
11
12 DEPOSITION OF YSIDRO LIMON, SR.

13 VOLUME III

14 (Pages 365-504)

15
16
17 Taken before Melissa Watanabe

18 CSR No. 13191

19 December 4, 2015

20
21
22 Aiken Welch Court Reporters
23 One Kaiser Plaza, Suite 250
24 Oakland, California 94612
25 (510) 451-1580/(877) 451-1580
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www.aikenwelch.com

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1	I N D E X	
2	PAGE	
3	EXAMINATION BY MR. KASIMOV 370, 453, 462, 469, 492,	1 APPEARANCES (Continued):
4	496, 501	2 For the Defendant Kaiser Gypsum Company, Inc.:
5	EXAMINATION BY MS. WEISS 399, 470, 497, 500	3 JONATHAN POLOSKOV DeHay & Elliston, LLP
6	EXAMINATION BY MR. SARGOY 410, 463, 501	4 707 Wilshire Boulevard, Suite 4300 Los Angeles, California 90017
7	EXAMINATION BY MR. POLOSKOV 426, 449, 454, 463, 495, 497	5 (213) 271-2727 JPoloskov@dehay.com
8	EXAMINATION BY MS. HARAN 442	6
9	EXAMINATION BY MS. MAAN 447	7 For the Defendant CertainTeed Corporation:
10		8 JON KASIMOV Dentons US, LLP
11		9 300 South Grand Avenue, 14th Floor Los Angeles, California 90071
12		10 (213) 688-1000 Jon.kasimov@dentons.com
13		11
14	E X H I B I T S	12 For the Defendant Martin Bros./Marcowall, Inc.:
15	(NONE)	13 LINDSAY WEISS Manion, Gaynor & Manning, LLP
16		14 444 South Flower Street, Suite 2150 Los Angeles, California 90071
17		15 (213) 694-4206 Lweiss@mglaw.com
18		16
19		17 For the Defendant Familiar Corporation:
20		18 CHRISTOPHER M. SARGOY Pond North, LLP
21		19 350 South Grand Avenue, Suite 3300 Los Angeles, California 90071
22		20 (213) 617-6170 Csargoy@pondnorth.com
23		21
24		22
25		23
		24
		25
	Page 367	Page 369
1	DEPOSITION OF YSIDRO LIMON, SR.	1 APPEARANCES (Continued)
2		2 For the Defendant Anheuser-Busch, LLC (fka
3	BE IT REMEMBERED, that pursuant to Notice, and on	Anheuser-Busch, Inc.):
4	the 4th day of December 2015, commencing at the hour of	3 CANDACE NEAL (via phone)
5	9:17 a.m., at the Radisson Hotel Whittier, 7320 Greenleaf	4 Reed Smith, LLP
6	Drive, Whittier, California 90602, before me, Melissa	5 355 South Grand Avenue, 29th Floor
7	Watanabe, a Certified Shorthand Reporter, State of	6 Los Angeles, California 90071
8	California, personally appeared YSIDRO LIMON, SR.,	7 (213) 457-8000
9	produced as a witness in said action, and being by me	8 Cheal@reedsmit.com
10	first duly sworn, was thereupon examined as a witness in	9
11	said cause.	For the Defendant Pierce Lathing Co. (Dba Pierce
12	----oo---	Enterprises):
13	APPEARANCES	9 AALIA MAAN (via phone)
14	For the Plaintiff:	Walsworth WFBM, LLP
15	MICHAEL MILLER	10 601 Montgomery Street, 9th Floor
16	Brayton Purcell	11 San Francisco, California 94111
17	222 Rush Landing Road	12 (415) 781-7072
18	Novato, California 94948	13
19	(800) 765-7778	14
20	Mmillier@braytonlaw.com	15
21	For the Defendant Amcord, Inc.:	16
22	GINA HARAN (via phone)	17
23	Adams, Nye, Becht, LLP	18
24	222 Kearny Street, 7th Floor	19
25	San Francisco, California 94108	20
	(415) 982-8955	21
	Gharan@adamsnye.com	22
		23
		24
		25

	Page 370	Page 372
<p>1 YSIDRO LIMON, SR. 2 previously sworn as a witness 3 testified as follows:</p> <p>4</p> <p>5 MR. KASIMOV: Back on the record.</p> <p>6</p> <p>7 EXAMINATION BY MR. KASIMOV:</p> <p>8 Q. Good morning, Mr. Limon. How are you?</p> <p>9 A. Good morning. Fine.</p> <p>10 Q. Do you feel well enough to proceed?</p> <p>11 A. Yes, sir.</p> <p>12 Q. All right. Let's try to finish this today.</p> <p>13 I want to ask you about a few remaining jobs</p> <p>14 that you did for Grinnell, and the first one is at</p> <p>15 Vandenberg Air Force Base.</p> <p>16 What type of work did you do there?</p> <p>17 A. That was at the launch pad. And all I did was</p> <p>18 the final -- the job was already installed, and then they</p> <p>19 sent me to final it out.</p> <p>20 Q. Meaning, like --</p> <p>21 A. Like, having the inspection by the government.</p> <p>22 Q. Did you -- did you see any ongoing work at that</p> <p>23 time?</p> <p>24 A. There was quite a bit of trades going on.</p> <p>25 Q. All right. Did you see anybody demoing or</p>	<p>1 Q. Do you see the description of your work at the</p> <p>2 Westin Bonaventure?</p> <p>3 A. Yes.</p> <p>4 Q. It says that, "Plaintiff" -- I'm reading between</p> <p>5 lines 10 and 11, "Plaintiff recalls scraping</p> <p>6 asbestos-containing fireproofing from steel beams to</p> <p>7 install hangers for the piping."</p> <p>8 Do you recall doing that at that location, sir?</p> <p>9 A. Right, yes.</p> <p>10 Q. All right. You don't know who applied that</p> <p>11 fireproofing, do you?</p> <p>12 A. No, I don't.</p> <p>13 Q. And can you tell us what you did with respect to</p> <p>14 that fireproofing?</p> <p>15 A. We just scraped it. We were above, in the</p> <p>16 attic.</p> <p>17 Q. How long did you work in the attic?</p> <p>18 A. It was a couple of days.</p> <p>19 Q. Are you -- and you -- you scraped it in order to</p> <p>20 put, like, C clamps on?</p> <p>21 A. Yes.</p> <p>22 Q. All right. And do you recall how many clamps</p> <p>23 you installed?</p> <p>24 A. I don't recall.</p> <p>25 Q. Can you provide an estimate? Fewer than five?</p>	
Page 371		Page 373
<p>1 removing --</p> <p>2 A. No.</p> <p>3 Q. -- or disturbing any old insulation --</p> <p>4 A. No.</p> <p>5 Q. -- or any --</p> <p>6 A. It was all new construction.</p> <p>7 Q. All new construction there?</p> <p>8 A. Right.</p> <p>9 Q. All right. Did you do some work for Grinnell at</p> <p>10 Home Savings & Loan?</p> <p>11 A. I was supervisor at the time.</p> <p>12 Q. Was that a new construction or remodel?</p> <p>13 A. That was new.</p> <p>14 Q. Did you do some work at the -- well, first of</p> <p>15 all, did you work for a company called Century Sprinkler?</p> <p>16 A. Yes.</p> <p>17 Q. And did you work for them at The Westin</p> <p>18 Bonaventure Hotel?</p> <p>19 A. Yes.</p> <p>20 Q. Was that remodel work?</p> <p>21 A. That was an addition on a grease duct from the</p> <p>22 kitchen.</p> <p>23 Q. Can you take a look, sir, at page 15 of</p> <p>24 Exhibit 4. Do you have that in front of you?</p> <p>25 A. Yeah.</p>	<p>1 More than five?</p> <p>2 A. I'd say about 10 or so.</p> <p>3 Q. Did you use a putty knife to scrape the</p> <p>4 material?</p> <p>5 A. Yes.</p> <p>6 Q. And did you wear a dust mask while doing that?</p> <p>7 A. No.</p> <p>8 Q. Did you have a crew with you?</p> <p>9 A. It was just myself and another worker.</p> <p>10 Q. Do you remember who he was?</p> <p>11 A. No, I don't.</p> <p>12 Q. Did he also scrape some fireproofing out?</p> <p>13 A. Yes.</p> <p>14 Q. And did that in your vicinity?</p> <p>15 A. Alongside that grease duct.</p> <p>16 Q. Are you able to estimate how many -- how many</p> <p>17 times he scraped fireproofing?</p> <p>18 A. I don't recall.</p> <p>19 Q. And did that fireproofing resemble an appearance</p> <p>20 fireproofing that you previously described as Monokote?</p> <p>21 A. It was kind of cheesy-looking and sort of an</p> <p>22 off-white.</p> <p>23 Q. Did it resemble an appearance the fireproofing</p> <p>24 that you described earlier in the deposition as being</p> <p>25 Monokote?</p>	

<p style="text-align: right;">Page 478</p> <p>1 A. Yes.</p> <p>2 Q. And where is Dr. Patel located?</p> <p>3 A. In Whittier.</p> <p>4 Q. Does Dr. Patel also have his own practice?</p> <p>5 A. Yes.</p> <p>6 Q. How often do you see Dr. Reece?</p> <p>7 A. He usually sees me about every three months.</p> <p>8 Q. And how long have you been seeing him on that basis, every three months?</p> <p>10 A. Ever since I started.</p> <p>11 Q. So for 15 years?</p> <p>12 A. Yes.</p> <p>13 Q. And how often do you see Dr. Patel?</p> <p>14 A. Anywhere from three to four months.</p> <p>15 Q. When did you first start seeing Dr. Patel?</p> <p>16 A. About three years ago.</p> <p>17 Q. And for the past three years, have you been seeing Dr. Patel every three to four months?</p> <p>19 A. Yes.</p> <p>20 Q. Any other doctors that you've seen in the last 10 years, other than Dr. Reece and Dr. Patel?</p> <p>22 And let me clarify, that doesn't include if you've been to the emergency room or any hospitalizations. Only a physician you have gone to see.</p> <p>25 A. Yeah, I saw a Dr. Tovar. He did my open heart</p>	<p style="text-align: right;">Page 480</p> <p>1 Q. Where was he working out of?</p> <p>2 A. His own office.</p> <p>3 Q. So did you see Dr. Gardner up through his retirement and then switch to Dr. Patel?</p> <p>5 A. Yes.</p> <p>6 Q. The open heart surgery you had, was that a bypass? valve replacement?</p> <p>8 A. Bypass and valve replacement.</p> <p>9 Q. One valve replaced?</p> <p>10 A. Yes.</p> <p>11 Q. Was it a single bypass? Double? Triple?</p> <p>12 A. It was five bypasses.</p> <p>13 Q. Prior to that surgery, sir, were you experiencing symptoms that led you to go to a doctor and have them look into your heart?</p> <p>16 A. It happened all of a sudden in March 1st, evening.</p> <p>18 Q. Did you have a heart attack?</p> <p>19 A. No. It was just a defibrillation.</p> <p>20 Q. So this happened suddenly in March of 2006?</p> <p>21 A. It started, like, blink of an eye, and then it hit me.</p> <p>23 Q. Prior to the surgery, were you experiencing any shortness of breath?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 479</p> <p>1 surgery.</p> <p>2 Q. And how do you spell his last name?</p> <p>3 A. T-o-r-v-a-r [sic].</p> <p>4 Q. Is he also in Whittier?</p> <p>5 A. Yes.</p> <p>6 Q. When did he perform your open heart surgery?</p> <p>7 A. That was in 2006, March.</p> <p>8 Q. So he is a surgeon; is that correct?</p> <p>9 A. Heart surgeon.</p> <p>10 Q. And did you have follow-up appointments with him after your surgery?</p> <p>12 A. Yes.</p> <p>13 Q. When was the last time that you saw Dr. Tovar?</p> <p>14 A. I'd say almost nine years.</p> <p>15 Q. So you haven't seen him since 2006?</p> <p>16 A. Right.</p> <p>17 Q. Okay. And I just want to clarify, sir, so you indicated that you started seeing Dr. Patel three years ago in 2012; is that correct?</p> <p>20 A. Around there.</p> <p>21 Q. From 2006 to 2012, did you see any other cardiologists?</p> <p>23 A. Dr. Gardner.</p> <p>24 Q. Is Dr. Gardner in Whittier?</p> <p>25 A. Yes. He's retired now.</p>	<p style="text-align: right;">Page 481</p> <p>1 Q. Were you experiencing any chest pain?</p> <p>2 A. No.</p> <p>3 Q. After your surgery, did you experience any shortness of breath?</p> <p>5 A. No.</p> <p>6 Q. Did you experience any chest pain?</p> <p>7 A. No.</p> <p>8 Q. As you sit here today, do you experience shortness of breath?</p> <p>10 A. No.</p> <p>11 Q. Do you have any chest pains?</p> <p>12 A. No.</p> <p>13 Q. Sir, in the last 10 years, have you and -- well, strike that.</p> <p>15 Other than your open heart surgery, in the last 10 years, have you gone to an emergency room?</p> <p>17 A. Yes.</p> <p>18 Q. For what?</p> <p>19 A. A number of things. Primarily, it was for when I had that problem with the heart, I went directly to the emergency. And then other times it was just, like, for back surgery, I went for that. And one time I went for a virus infection.</p> <p>24 Q. When did you have back surgery?</p> <p>25 A. That was in -- I think it was prior to -- it was</p>

Page 482	Page 484
1 in 2007.	1 Q. Do you currently live alone?
2 Q. After your heart surgery?	2 A. No.
3 A. Yes.	3 Q. Who do you live with?
4 Q. Who performed your back surgery?	4 A. Mary.
5 A. Dr. Kitchen.	5 Q. Does Mary have a last name?
6 Q. How do you spell his last name?	6 A. Ybarro.
7 A. Just like kitchen.	7 Q. Does anyone else live with you?
8 Q. Okay. Do you still see Dr. Kitchen on a regular	8 A. My daughter.
9 basis?	9 Q. Which daughter?
10 A. No. He left this area.	10 A. Loretta.
11 Q. What was going on with your back that you needed	11 Q. Anyone else?
12 surgery for?	12 A. And her two kids.
13 A. Herniated T-10 and T-11.	13 Q. How long have you lived with Mary?
14 Q. Sir, I noticed you've used a walker the past few	14 A. It's been eight years.
15 days we've been here.	15 Q. Since you've lived with Mary, in the past eight
16 Is that something you've used since your back	16 years, does -- who does the cooking in the home?
17 surgery?	17 A. She does.
18 A. No. That was on my knee operation.	18 Q. Has she always done that?
19 Q. When did you have your knee operated on?	19 A. Yes.
20 A. The first time was in 2007, and then I had one	20 Q. And who does the cleaning in the home?
21 in 2010.	21 A. She does and my daughter.
22 Q. Same knee?	22 Q. And has that always been the case?
23 A. No. Right knee, 2010.	23 A. And I help once in a while.
24 Q. And left knee in 2007?	24 Q. Do you do the laundry at home?
25 A. Yes.	25 A. Yes, the laundry's done at home.
Page 483	Page 485
1 Q. Do you recall what -- which doctors performed	1 Q. Do you do the laundry or does Mary or your
2 those surgeries?	2 daughter do it?
3 A. That was Dr. Averill in San Diego.	3 A. They do.
4 Q. That did both?	4 Q. Can you drive a car with your knee problems?
5 A. No, he did one, the left.	5 A. Yes. There's no problem driving.
6 Q. And who did the surgery in 2010?	6 Q. So you're still able to drive --
7 A. Dr. Oakes.	7 A. Yes.
8 Q. Oakes?	8 Q. -- without any problem?
9 A. Oakes.	9 And you said you also visited an emergency room
10 Q. Where is he located?	10 for a viral infection.
11 A. USC Medical.	11 Do you recall when that was?
12 Q. So was it since your first knee operation in	12 A. That was around 2011.
13 2007 that you began using the walker or was it in 2010	13 Q. Do you recall which hospital you went to?
14 after your second operation?	14 A. Whittier Presbyterian.
15 A. Prior to 2010, they did a revision on my left	15 Q. How long were you in the hospital for?
16 knee. And prior to that revision, I had fractured my	16 A. A couple of weeks.
17 femur, and they put a rod in it with some screws, and	17 Q. Do you know where the viral -- the virus
18 then they did the revision on my knee.	18 originated?
19 MR. KASIMOV: Could I have that answer read	19 A. They never found out.
20 back, please.	20 Q. Since that infection, have you had any residual
21 (Record Read.)	21 problems?
22 BY MS. WEISS:	22 A. No.
23 Q. And since that time, sir, have you been using a	23 Q. Sir, when was the last time you had a chest
24 walker on a daily basis?	24 X-ray performed?
25 A. When I go out of the house.	25 A. Two weeks ago.

	Page 486	Page 488
1	Q. Was that with Dr. Reece?	1 Q. And who's been watching it? Your cardiologist?
2	A. At the hospital, Whittier Presbyterian.	2 A. Cardiologist and my primary doctor.
3	Q. And who directed you to have that done?	3 Q. And since 2006, which is when your surgery was,
4	A. I had gone in -- it was a freaky thing. I had	4 has any doctor told you that the pleural thickening on
5	breakfast, and I had finished my cereal, and I kind of	5 your right lung has increased?
6	upchucked, and some of the Cheerios went down into my	6 A. No.
7	lung. Freaky.	7 Q. Have you ever been diagnosed with congestive
8	Q. All right. So did they perform an X-ray to see	8 heart failure?
9	where the Cheerios were in your body?	9 A. No.
10	A. They did. They gave me a CAT scan.	10 Q. Have you ever broken or fractured any of your
11	Q. And what did they tell you to do about the	11 ribs?
12	Cheerios in your lung?	12 A. No.
13	A. The body would absorb it. And they gave me	13 Q. Have you been diagnosed with hypertension, high
14	antibiotics and a breathing treatment to help dry up the	14 blood pressure?
15	lung.	15 A. Yes.
16	Q. Do you have a follow-up appointment scheduled to	16 Q. When were you diagnosed with that?
17	look at that?	17 A. That was back in -- around '70s.
18	A. With Dr. Reece.	18 Q. Are you taking medication for that?
19	Q. When is that?	19 A. Yes.
20	A. Next week.	20 Q. Do you recall the name of that medication?
21	Q. Prior to this freak accident, when was the last	21 A. Quinapril.
22	time you got a chest X-ray?	22 Q. Other than quinapril, are you taking any other
23	A. About 2009.	23 medication on a regular basis?
24	Q. Did Reece have that performed?	24 A. Yes.
25	A. That's when I went for that virus, they checked	25 Q. What is that?
	Page 487	Page 489
1	me out.	1 A. Plavix.
2	Q. And do you recall any physician or nurse telling	2 Q. How do you spell that?
3	you anything about your lungs when they looked at that --	3 A. P-a-l-v-i-x [sic].
4	when they performed the chest X-ray?	4 Q. Okay. What is that for?
5	A. No.	5 A. That's for -- it's similar to a blood thinner,
6	Q. Sir, I'm going to ask you about various	6 but not as severe.
7	illnesses, see if you've ever been diagnosed with them.	7 Q. Anything else?
8	Have you ever been diagnosed with pneumonia?	8 A. Toprol.
9	A. No.	9 Q. What's that for?
10	Q. Bronchitis?	10 A. That's for beta-blocker.
11	A. I think once or twice.	11 Q. Anything else?
12	Q. Asthma?	12 A. Flomax.
13	A. No.	13 Q. And what is that for?
14	Q. Pleural plaques?	14 A. It helps the bladder.
15	A. No.	15 And Pletal.
16	Q. Pleural thickening?	16 Q. What's the Pletal for?
17	A. I do have -- I think it's the right lung.	17 A. That's for dilating the small capillaries of
18	Q. Who told you that?	18 your feet.
19	A. When I went in for my open heart surgery.	19 Q. Do you have diabetes, sir?
20	Q. Was it Dr. -- the surgeon?	20 A. Yes.
21	A. Surgeon.	21 Q. When were you diagnosed with that?
22	Q. And did the surgeon tell you that you should do	22 A. Let's see, I was about 50 years old.
23	anything to correct that or if there was any treatment	23 Q. Do you take aspirin every day?
24	for that?	24 A. No.
25	A. No. They've just been watching it.	25 Q. Any other medications other than the five we've

<p style="text-align: right;">Page 502</p> <p>1 Q. All right. Have you received any treatment 2 whatsoever or any follow-up treatment with respect to 3 what your surgeon told you was pleural thickening? 4 MS. WEISS: Asked and answered. 5 THE WITNESS: I'll answer it again. No. 6 BY MR. KASIMOV: 7 Q. All right. Have you incurred any out-of-pocket 8 medical expense relating to your lungs? 9 A. No. 10 Q. Do you know whether Medicare has paid any 11 hospital or doctor's bill relating to your lungs? 12 A. No. 13 Q. Do you know if the supplemental insurance 14 carrier has done so? 15 A. No. 16 Q. All right. Thanks. 17 MS. WEISS: Any follow-up on the phone? 18 Okay. I think those are all of our questions, 19 sir. 20 MR. MILLER: Nobody on the phone has questions? 21 Okay. We're done, then. I'm not asking 22 anything. 23 Let's go off the record. 24 (The deposition concluded at 1:55 p.m.) 25</p>	<p style="text-align: right;">Page 504</p> <p>1 REPORTER'S CERTIFICATE 2 3 4 I, MELISSA WATANABE, a Shorthand Reporter, State 5 of California, do hereby certify: 6 That YSIDRO LIMON, SR., in the foregoing 7 deposition named, was present and by me sworn as a 8 witness in the above-entitled action at the time and 9 place therein specified; 10 That said deposition was taken before me at said 11 time and place, and was taken down in shorthand by me, a 12 Certified Shorthand Reporter of the State of California, 13 and was thereafter transcribed into typewriting, and that 14 the foregoing transcript constitutes a full, true and 15 correct report of said deposition and of the proceedings 16 that took place; 17 IN WITNESS WHEREOF, I have hereunder subscribed 18 my hand this 18th day of December 2015. 19 20 _____ 21 MELISSA WATANABE, CSR NO. 13191 State of California 22 23 * 24 25</p>
<p style="text-align: right;">Page 503</p> <p>1 SIGNATURE OF DEPONENT 2 3 I, the undersigned, YSIDRO LIMON, SR., do hereby 4 certify that I have read the foregoing deposition and 5 find it to be a true and accurate transcription of my 6 testimony, with the following corrections, if any: 7 8 PAGE LINE CHANGE 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____ YSIDRO LIMON, SR., Date</p>	

EXHIBIT O

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COMPANY

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF SAN FRANCISCO**

13 YSIDRO LIMON, SR.,

CASE No. CGC-15-276378

14 Plaintiff,

**DEFENDANT C.F. BOLSTER
COMPANY'S [PROPOSED] ANSWER TO
PLAINTIFF'S COMPLAINT FOR
PERSONAL INJURY; DEMAND FOR
JURY TRIAL**

15 v.

16 AMCORD, INC., et al.,

17 Defendants.

[Filed Concurrently with Notice of Motion and
Motion; Memorandum of Points and
Authorities; Declaration of Laurie S. Julien;
Declaration of Flo-Ann Wilson; Evidentiary
Packet; Request for Judicial Notice;
(Proposed) Order]

18 Date: September 16, 2021

19 Time: 9:30 a.m.

20 Dept.: 503

21
22
23 The Hon. Cynthia Ming-Mei Lee

24 Action Filed: October 18, 2011
25 Trial Date: None

26
27 COMES NOW Defendant, C.F. Bolster Company ("CF Bolster") for itself and for no other
28 defendant, to answer Plaintiff's Complaint on file herein, as follows:

DEFENDANT C.F. BOLSTER COMPANY'S [PROPOSED] ANSWER
TO PLAINTIFF'S COMPLAINT FOR PERSONAL INJURY

1 Pursuant to California Code of Civil Procedure section 431.30(d), answering defendant
2 denies, both generally and specifically, each and every allegation contained in the complaint, and
3 each cause of action therein, and each paragraph of each cause of action, and denies that, as a
4 direct and proximate result or any result of any tortious conduct on the part of this defendant, or
5 any of its agents, servants, employees, or anyone acting for or on its behalf, that Decedent or
6 Plaintiff has been or will be injured or damaged in the manner and amount alleged or in any
7 manner or amount whatsoever.

8 **FIRST AFFIRMATIVE DEFENSE**

9 Plaintiff has failed to state facts sufficient to constitute a claim or causes of action upon
10 which relief may be granted as against CF Bolster.

11 **SECOND AFFIRMATIVE DEFENSE**

12 The entire Complaint, and each cause of action thereof, is barred by the limitations and
13 repose periods set forth in California Code of Civil Procedure §§337(1)-(3), 337.1(a)-(f),
14 337.15(a)-(g), 338(a)-(k), 338.1; 339(1)-(3), 340(a) (e), 340.2(a)-(c), 343, 353.1, 355, and 361, and
15 all other applicable limitations periods, including any limitations and/or repose periods of foreign
16 jurisdictions that may be determined during the course of discovery to be applicable.

17 **THIRD AFFIRMATIVE DEFENSE**

18 The entire Complaint, and each cause of action thereof, is barred because Plaintiff has
19 failed to comply with the provisions of California Code of Civil Procedure §411.35.

20 **FOURTH AFFIRMATIVE DEFENSE**

21 Plaintiff has failed to join all proper parties necessary for a full and just adjudication of the
22 purported causes of action in the Complaint, or alternatively, have misjoined the parties to this
23 action.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 Plaintiff lacks standing to sue CF Bolster.

26 **SIXTH AFFIRMATIVE DEFENSE**

27 Plaintiff Ysidro Limon was careless and negligent and acted unreasonably in or about the
28 things alleged in the Complaint, which conduct actually and proximately caused all or part of

1 Plaintiff's claimed injuries and damages, if any. Any damages which Plaintiff seeks to recover
2 from CF Bolster must be reduced or barred in proportion to the extent that Plaintiff's own
3 negligence contributed to the claimed injuries or damages.

4 **SEVENTH AFFIRMATIVE DEFENSE**

5 All or part of Decedent's and/or Plaintiff's injuries or damages, if any, were actually and
6 proximately caused by the conduct of third parties, and not CF Bolster.

7 **EIGHTH AFFIRMATIVE DEFENSE**

8 The Complaint improperly attempts to assert liability under the theory of market share
9 liability as postulated by *Sindell v. Abbott Laboratories* (1980) 26 Cal.3d 588. However, market
10 share liability has been expressly rejected in asbestos cases under *Mullen v. Armstrong World*
11 *Industries* (1988) 200 Cal.App.3d 250, with the very limited exception in brake exposure cases
12 under *Wheeler v. Raybestos Manhattan* (1992) 8 Cal.App.4th 1152.

13 **NINTH AFFIRMATIVE DEFENSE**

14 At all times mentioned, Decedent had knowledge of the risks of the matters set forth in the
15 Complaint, as well as the magnitude of the risks, and thereafter, knowingly, willingly and
16 voluntarily assumed those risks.

17 **TENTH AFFIRMATIVE DEFENSE**

18 The entire Complaint, and each cause of action thereof, is barred as against CF Bolster by
19 the provisions of California Labor Code §§3600, et seq.

20 **ELEVENTH AFFIRMATIVE DEFENSE**

21 The entire Complaint, and each cause of action thereof, is barred because the products and
22 materials, which Plaintiff alleges caused the alleged injuries and damages, conformed to
23 specifications and plans promulgated and approved by the United States government.

24 **TWELFTH AFFIRMATIVE DEFENSE**

25 The entire Complaint, and each cause of action thereof, fails to state a cause of action
26 against CF Bolster because the federal government has preempted the field of law applicable to
27 the products alleged to have caused Plaintiff's injuries, or the claims forming the basis for relief.
28 The granting of the relief prayed for in the Complaint would impede, impair, frustrate and/or

1 burden the effectiveness of federal law regulating the field and would violate the Supremacy
2 Clause contained in Article VI, Clause 2 of the United States Constitution.

3 **THIRTEENTH AFFIRMATIVE DEFENSE**

4 The entire Complaint, and each cause of action thereof, is barred because the products and
5 materials, which Plaintiff alleges caused the alleged injuries and damage, were manufactured,
6 installed, used or distributed in compliance with specifications provided by third parties to CF
7 Bolster and/or in compliance with all applicable health and safety statutes and regulations.

8 **FOURTEENTH AFFIRMATIVE DEFENSE**

9 The state of medical and scientific knowledge and published literature and materials
10 reflecting such state of medical and scientific knowledge, at all times pertinent hereto, was such
11 that CF Bolster neither knew, nor could have known, that the construction activities in issue
12 presented a foreseeable risk of harm to Decedent or Plaintiff.

13 **FIFTEENTH AFFIRMATIVE DEFENSE**

14 The entire Complaint, and each cause of action thereof, is barred on the grounds the
15 products or materials referred to in the Complaint, if any, were not a substantial factor in bringing
16 about the injuries and damages alleged by Plaintiff.

17 **SIXTEENTH AFFIRMATIVE DEFENSE**

18 The entire Complaint, and each cause of action thereof, is barred as against CF Bolster by
19 the doctrine of waiver.

20 **SEVENTEENTH AFFIRMATIVE DEFENSE**

21 Any defect or danger in or about the premises was trivial.

22 **EIGHTEENTH AFFIRMATIVE DEFENSE**

23 CF Bolster alleges that Plaintiff's claims against it are barred by the holding of *Privette v.*
24 *Superior Court* (1993) 5 Cal.4th 689.

25 **NINETEENTH AFFIRMATIVE DEFENSE**

26 Plaintiff's Complaint fails to state facts sufficient to entitle Plaintiff to an award of punitive
27 or exemplary damages against CF Bolster.

28 ///

1 **TWENTIETH AFFIRMATIVE DEFENSE**

2 Plaintiff is not entitled to an award of punitive or exemplary damages in this action. Such
3 an award would be unconstitutional unless CF Bolster is accorded the safeguards provided under
4 the Constitution of the State of California and the Fourth, Fifth, Sixth, Eighth and Fourteenth
5 Amendments to the United States Constitution.

6 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

7 Plaintiff unreasonably delayed in bringing this action, without good cause, and thereby has
8 prejudiced CF Bolster as a direct and proximate result of such delay; accordingly, Plaintiff's
9 action is barred by laches.

10 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

11 Any loss, injury or damage suffered or incurred by Plaintiff was proximately caused by the
12 negligent or willful acts or omissions of parties whom CF Bolster neither controlled nor had the
13 right to control, and was not proximately caused by any acts, omissions or other conduct of CF
14 Bolster.

15 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

16 Plaintiff failed to exercise due diligence to mitigate Plaintiff's loss, injury or damages;
17 accordingly, the amount of damages to which Plaintiff is entitled, if any, should be reduced by the
18 amount of damages which would have otherwise been mitigated.

19 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

20 At the time of the injuries alleged in the Complaint, Decedent was employed and entitled
21 to receive workers' compensation benefits from his employers; that Decedent's' employers, other
22 than CF Bolster, may have been negligent in and about the matters referred to in said Complaint,
23 and that such negligence on the part of said employers proximately and concurrently contributed
24 to the happening of the accident and to the loss or damage complained of by Plaintiff, if any there
25 were; and that by reason thereof CF Bolster is entitled to set off any such benefits received or to be
26 received by Plaintiff against any judgment which may be rendered in favor of Plaintiff.

27 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

28 At the time of the injuries alleged in the Complaint, parties other than CF Bolster were

1 negligent in and about the matters referred to in the Complaint, and such negligence on the part of
2 third parties proximately and concurrently contributed to any loss or damage, including non-
3 -economic damages, if any. CF Bolster is not liable for any third parties' proportionate share of
4 Plaintiff's non-economic damages.

5 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

6 The Complaint, and every purported cause of action against CF Bolster, is barred by the
7 "sophisticated user" doctrine recognized in *Johnson v. American Standard, Inc.* (2008) 43 Cal.4th
8 56. Plaintiff Ysidro Limon and his employers were sophisticated users of asbestos-containing
9 products and knew or should have known of the risk, harm, or danger, if any, posed by CF
10 Bolster's activities, or the use of its products, at issue in this case.

11 **TWENTY- SEVENTH AFFIRMATIVE DEFENSE**

12 To the extent Decedent has received workers' compensation benefits from CF Bolster
13 under the California Labor Code as a consequence of the alleged industrial injury referred to in the
14 Complaint, and in the event CF Bolster is held liable to Plaintiff, any award against CF Bolster
15 must be reduced by the amount of all such benefits received.

16 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

17 To the extent Decedent has received workers' compensation benefits from CF Bolster
18 under the California Labor Code as a consequence of the alleged industrial injury referred to in the
19 Complaint, and in the event Plaintiff is awarded damages against CF Bolster, CF Bolster claims a
20 credit against such award to the extent CF Bolster is barred from enforcing its rights to
21 reimbursement against workers' compensation benefits that Decedent has received.

22 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

23 To the extent Decedent has received workers' compensation benefits from CF Bolster
24 under the California Labor Code as a consequence of the alleged industrial injury referred to in the
25 Complaint, CF Bolster demands repayment of any such workers' compensation benefits in the
26 event that Plaintiff recovers tort damages as a result of the industrial injury allegedly involved
27 here. Although CF Bolster denies the validity of Plaintiff's claims, in the event those claims are
28 held valid and not barred by the statute of limitations or otherwise, CF Bolster asserts that cross-

1 demands for money have existed between Plaintiff and CF Bolster and the demands are
2 compensated, so far as they equal each other, pursuant to California Code of Civil Procedure
3 §431.70.

4 **THIRTIETH AFFIRMATIVE DEFENSE**

5 At all times and places mentioned in the Complaint, Plaintiff was not in privity of contract
6 with CF Bolster. Therefore, Plaintiff may not rely upon the theory of any alleged breach of
7 express or implied warranty, and all claims predicated on any theory of warranty are barred.

8 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

9 This court lacks subject matter jurisdiction over the entire Complaint and the causes of
10 action alleged in the Complaint, or alternatively that the Court lacks jurisdiction due to
11 insufficiency of process or the service and/or improper venue.

12 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

13 As a result of Plaintiff's unreasonable delay in bringing this action, without good cause, in
14 addition to his other unreasonable acts and omissions, Plaintiff has waived some or all of the
15 claims stated or purportedly stated in the Complaint.

16 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

17 The activity alleged in the Complaint, to the extent it was engaged in by CF Bolster, if at
18 all, was not ultra-hazardous under California law.

19 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

20 California Civil Code §§1431.1– 1431.5, known as the Fair Responsibility Act of 1986, are
21 applicable to the present action and to certain claims therein, and based upon the principle of
22 comparative fault, the liability, if any, of CF Bolster, shall be several only and shall not be joint.
23 CF Bolster, if liable at all, shall be liable as to certain claims only for the amount of non-economic
24 damages allocated to CF Bolster in direct proportion to CF Bolster's percentage of fault, if any,
25 and a separate and several judgment shall be rendered against CF Bolster for non-economic
26 damages, if any.

27 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

28 Plaintiff cannot prove any facts showing that the conduct of CF Bolster was the cause in

1 fact of any injuries or damages suffered by Plaintiff as alleged in the Complaint.

2 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

3 Plaintiff cannot prove any facts showing that the conduct of CF Bolster was the proximate
4 cause of any alleged injuries or damages suffered by Plaintiff as alleged in the Complaint.

5 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

6 If Decedent was injured as alleged in the Complaint, those injuries were proximately
7 caused by allergies, sensitivities and idiosyncrasies particular to Decedent, not found in the
8 general public and unknown and unknowable to CF Bolster. Such injuries, if any, were not
9 reasonably foreseeable to CF Bolster.

10 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

11 At all times relevant, CF Bolster's acts and omissions were in conformity with all
12 government statutes and regulations and all industry standards based upon the state of knowledge
13 existing at the time of the acts or omissions.

14 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

15 Decedent and/or Plaintiff directed, ordered, approved and/or ratified CF Bolster's conduct.
16 Therefore, Plaintiff is estopped from asserting the claims alleged in the Complaint which result
17 from Decedent or Plaintiff's own acts, conduct or omissions.

18 **FORTIETH AFFIRMATIVE DEFENSE**

19 CF Bolster refers to and incorporates herein by reference each and every affirmative
20 defense pleaded by the other parties to this action the extent that such defenses are not inconsistent
21 with the matters stated herein.

22 **FORTY-FIRST AFFIRMATIVE DEFENSE**

23 Plaintiff's Complaint and each and every cause of action therein based upon warranty or
24 breach thereof, is barred as a result of failure of Plaintiff to give notice required under Commercial
25 Code §2607(3)(a).

26 **FORTY-SECOND AFFIRMATIVE DEFENSE**

27 To the extent Plaintiff claim(s), or may claim, injury or damage caused by work performed
28 by CF Bolster for, or under the direction and control of, the United States Government, Plaintiff's

1 claims are barred by the "government contractor defense" as articulated in *Boyle v. United Techs,*
2 *Inc.* (1988) 487 U.S. 500 as CF Bolster, in performing such work, did so in conformity with
3 detailed specifications which were created or approved by the United States Government and as
4 the United States Government was, at all relevant times, independently aware of health hazards
5 potentially associated with certain asbestos exposures.

6 **FORTY-THIRD AFFIRMATIVE DEFENSE**

7 Plaintiff's instant action is barred and discharged, pursuant to Title 11 U.S.C. section
8 1141(d), and that Plaintiff's action violates the pending injunction against such claims that exists,
9 by operation of law, pursuant to Title 11 U.S.C. section 524(a)(2).

10 **FORTY-FOURTH AFFIRMATIVE DEFENSE**

11 Defendant alleges that Plaintiff's entire Complaint, is barred by the Statute of Frauds to the
12 extent that any such causes of action are based on alleged oral agreements.

13 **FORTY-FIFTH AFFIRMATIVE DEFENSE**

14 CF Bolster's alleged actions, which are the subject of the Complaint, were lawful and/or
15 justified.

16 **FORTY-SIXTH AFFIRMATIVE DEFENSE**

17 Defendant alleges that any danger or defect on the premises was obvious or could have
18 been observed by Plaintiff's exercise of reasonable care.

19 **FORTY-SEVENTH AFFIRMATIVE DEFENSE**

20 CF Bolster alleges that Plaintiff's complaint, and each and every cause of action therein, is
21 barred by the applicable statute of limitations, including but not limited to California Code of Civil
22 Procedure section 335.1, 340.2(a)(1) 340.2(a)(2), 340.2(c)(1) and 340.2(c)(2).

23 **FORTY-EIGHT AFFIRMATIVE DEFENSE**

24 CF Bolster alleges that the instant action is barred by the rule against splitting a cause of
25 action.

26 **FORTY-NINTH AFFIRMATIVE DEFENSE**

27 CF Bolster has insufficient knowledge or information on which to form a belief as to
28 whether it may have additional, as yet unstated, defenses available. CF Bolster expressly reserves

1 the right to assert additional defenses.

2 WHEREFORE, CF Bolster prays for judgment as follows:

3 1. That Plaintiff take nothing by way of its Complaint or any cause of action thereof
4 against CF Bolster;

5 2. That the Court award judgment in favor of CF Bolster;

6 3. For reasonable attorneys' fees;

7 4. For costs of suit and disbursements; and

8 5. For such other and further relief as the Court may deem proper.

9
10 DATED: _____, 2021

BERKES CRANE ROBINSON & SEAL LLP

11
12 By: _____

13 VIIU SPANGLER KHARE
14 LAURIE S. JULIEN
15 NARINE LEVONYAN
16 TAYLOR M. MATSUMOTO
17 Attorneys for Defendant CF BOLSTER
18 COMPANY
19
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1 **DEMAND FOR JURY TRIAL**

2 Defendant CF Bolster Company hereby demands a trial by jury on all issues triable by a
3 jury in the above entitled action.

4

5 DATED: _____, 2021 BERKES CRANE ROBINSON & SEAL LLP

6

7

8 By:

9 VIIU SPANGLER KHARE
10 LAURIE S. JULIEN
11 NARINE LEVONYAN
12 TAYLOR M. MATSUMOTO
13 Attorneys for Defendant CF BOLSTER
14 COMPANY

15 64U9367.DOCX

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EXHIBIT P

Berkes Crane Robinson & Seal LLP

L A W Y E R S

August 3, 2020

VIA ELECTRONIC MAIL ONLY

Alan Brayton
Brayton Purcell
222 Rush Landing Road
Novato, CA 94945
abrayton@braytonlaw.com

Re: CF Bolster Company and Relief From Default/Default Judgment:
Steadman v. Asbestos Corporation Limited, et al., LASC Case No. BC496102
Limon v. Amcord Inc., et al., SFSC Case No. CGC-15-276378
Voltino v. Kaiser Gypsum Company, Inc., et al., SFSC Case No. CGC-15-276414
Huck v. Kaiser Gypsum Company, Inc., et al., LASC Case No. BC522509
Carr v. Kaiser Gypsum Company, Inc., et al., LASC Case No. BC520044
Cooper v. Dowman Products, Inc., et al., LASC Case No. BC495793

Dear Mr. Brayton:

We are in receipt of your May 21, 2020 letter to Great American Insurance Company ("Great American") providing notice of six separate default judgments entered against CF Bolster Company ("Bolster"), alleged to be an insured of Great American, in the above-referenced asbestos bodily injury cases ("Actions"). As you know, in accordance with Bill Baron's July 31, 2020 response to your notice letter, Great American has agreed to defend Bolster under reservation of rights in connection with the Actions. To that end, the purpose of this correspondence is to request that Plaintiffs agree to relieve Bolster from the defaults and default judgment in the Actions, so as to allow Bolster to file Answers to the complaints, and defend the Actions on the merits, through Great American. *See Penasquitos, Inc. v. Superior Court*, 53 Cal.3d 1180, 1185 (1991).

For the reasons detailed below, we believe that Great American would be successful in moving to vacate the defaults and default judgments on various grounds. As a result, in lieu of incurring the time, expense and burden on judicial resources in requiring motions in each of the six Actions, particularly during the pandemic, we seek your agreement to stipulate to vacate and set aside the entry of defaults and default judgments in the Actions, without the need to incur the expense of drafting and filing six motions to vacate.

Alan Brayton
August 3, 2020
Page 2

A. Relief Based on Equitable Grounds

Great American can readily satisfy all the requirements to have the defaults and default judgments in the Actions set aside under the court's equitable powers. *See Weitz v. Yankosky*, 63 Cal.2d 849, 855 (1966) [court has inherent equitable power to grant relief from default judgment where there has been extrinsic fraud or mistake]; *Bae v. T.D. Service Co. of Arizona*, 245 Cal.App.4th 89, 97 (2016) ["Apart from any statute, courts have the inherent authority to vacate a default and default judgment on equitable grounds such as extrinsic fraud or extrinsic mistake"]; *Rappleyea v. Campbell*, 8 Cal.4th 975, 981-982 (1994). To obtain relief by vacating a default or default judgment on equitable grounds, the moving party need only show: (1) a meritorious defense; (2) a satisfactory excuse for not presenting a defense to the original action; and (3) diligence in seeking to set aside the default or default judgment once discovered. *Rappleyea, supra*, 8 Cal.4th at 982; *Stiles v. Wallis*, 147 Cal.App.3d 1143, 1147-1148 (1983)

First, Bolster has various meritorious defenses to liability and damages, including that the default judgment was predicated, at least in part, on alleged exposure attributable to Bolster without evidence that Bolster was associated with the locations identified. There is simply no admissible evidence in the prove-up documents indicating that Bolster performed any work at the identified jobsites during the time period of the alleged asbestos exposure. *See Kim v. Westmoore Partners, Inc.*, 201 Cal.App.4th 267, 288 (2011) [plaintiffs in a default judgment proceeding must prove they are entitled to the damages claimed, and the amount of damages awarded is reviewable on appeal]. Absent exposure related to Bolster, there is no causation. *See Dumin v. Owens-Corning Fiberglas Corp.*, 28 Cal.App.4th 650, 655 (1994). In light of the lack of causation and therefore absence of liability, any award of damages is excessive, let alone the large judgments obtained. And, the large default judgments are not consistent with jury verdicts in San Francisco and Los Angeles, respectively, for similar injuries.

Second, Great American has a satisfactory excuse for not presenting a defenses to the Actions at the outset. Neither Bolster nor Great American had actual knowledge of the Actions until years after the complaints were filed, defaults were entered and default judgments were obtained. Specifically, the default judgments were all obtained in mid or late 2017; yet, Plaintiffs did not notify Great American until nearly three years later. Moreover, as discussed below, service on the Secretary of State does not result in "actual knowledge" of a lawsuit. Great American's first knowledge of the Actions against Bolster was your May 21, 2020 letter, received by Great American on May 28, 2020.

Third, Great American has acted diligently by investigating evidence of insurance and reaching a determination to defend under reservation of rights within approximately two months of receiving notice of this Action, despite the timing limitations inherent during this pandemic. Also, Great American diligently initiated communications with you about seeking relief from the

Alan Brayton
August 3, 2020
Page 3

entry of default and default judgment within approximately two months of receiving notice of the Actions.

We believe that *Mechling v. Asbestos Defendants* is directly on point, and that based on the facts of this matter, the courts would grant Motions to Vacate the defaults and default judgments. The Actions are factually identical to *Mechling*. In both *Mechling* and the Actions: (1) the insured had not been operating for years by the time it was served with the summons and complaint (or in these Actions, the Secretary of State was served more than 25 years after Bolster dissolved), (2) the insurer did not get notice of the Actions (or some of the actions in the *Mechling* consolidated cases) until after default was entered, through no fault of the insurer, (3) the insurer moved to vacate within months of receiving notice, although the default was entered years earlier and possibly past the time allowed for certain types of statutory relief, and (4) the insurer sought relief under the court's equitable powers.

The following specific determinations in *Mechling* apply equally to the present Actions:

1. The meritorious defense standard is a low threshold. As the defenses identified in the *Mechling* motion to vacate are fewer than those which can be identified by Great American in this matter, Great American can readily satisfy that standard. And, Great American has numerous affirmative defenses to be included in the proposed answers to the complaints, which the *Mechling* court reaffirmed is sufficient to meet the threshold.

2. The *Mechling* court held that lack of notice to an insurer is a satisfactory excuse for not presenting a defense at the outset. Because Great American similarly was not given notice and defense of the Actions were not tendered, until long after the default judgments were entered, this requirement is readily satisfied.

3. The *Mechling* court rejected a stringent time standard for diligence, and found that filing the motion to vacate five months after learning of the action satisfies the diligence requirement. Significantly, the court found that the "diligence time clock" starts ticking when the insurer receives notice of the action plus sufficient policy documents and information to conclude that the defendant is an insured and that a defense is owed. Here, as discussed above, Great American completed its investigation and coverage determination, and began the process of obtaining relief from the default and default judgment within two months of receiving notice of the Actions. Further, the court of appeal reiterated that the trial court weighs reasonableness of conduct of moving party in light of the prejudice to the opposing party. Here, like in *Mechling*, there has been no prejudice to Plaintiffs as they did not conduct a trial on the merits as against the insured.

Alan Brayton
August 3, 2020
Page 4

B. Relief Based on Statutory Grounds

Pursuant to Code of Civil Procedure section 473.5(a), neither Great American nor Bolster received actual notice of the Actions in time to defend, which entitles them to relief from the defaults and default judgments. Under Section 473.5(a), when service of a summons has not resulted in “actual notice” to a party in time to defend the action and a default or default judgment has resulted, the party may move to set aside the default/default judgment within 180 days of receiving written notice of the default/default judgment.

Plaintiffs’ service on the Secretary of State did not result in “actual notice” to Bolster. A corporation receives actual notice of a summons and complaint if its directors, president or designated agent for service of process were actually served. *Pulte Homes v. Williams Mechanical*, 2 Cal.App.5th 267, 273-275 (2016). Service on the Secretary of State does not result in “actual notice” to a corporate defendant under the present facts. See *Tunis v. Barrow*, 184 Cal.App.3d 1069, 1079 (1986). It is undisputed that no officer, director or agent for service received notice of the Actions from the Plaintiffs or the Secretary of State. Indeed, in each of the Actions, Plaintiffs were permitted to serve the Secretary of State because Bolster had been dissolved for decades, its officers and directors had long-since died, and there was no one that could be located to serve. Thus, Great American has an additional ground on which to obtain relief from the defaults and default judgments.

C. Stipulation and [Proposed] Order

Based on the above, we seek your cooperation in stipulating to vacate and set aside the defaults and default judgments against Bolster in the above Actions. In the past, our firms have stipulated to vacate and set aside defaults and default judgments under the same factual circumstances without need to draft and file motions for relief. The stipulations and orders entered thereon provide that the default/default judgment is vacated and set aside in their entirety, as to the insured and all insurers (not solely the moving party insurer). For reference, see the attached stipulation in the *Poblitz* matter.

Please let me know, by **August 13, 2020**, whether Plaintiffs in the above Actions will stipulate as outlined above. If we have not heard from you, we will be forced to draft and file six Motions to Vacate the defaults and default judgments.

Alan Brayton
August 3, 2020
Page 5

Thank you for your courtesy and cooperation. Please call with any questions or concerns.

Best wishes,

Laurie S. Julien
LAURIE S. JULIEN
for BERKES CRANE ROBINSON & SEAL LLP

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Alan Brayton
August 3, 2020
Page 6

bcc Flo-Ann Wilson

6474389.DOCX

EXHIBIT Q

From: Laurie S. Julien
Sent: Tuesday, October 13, 2020 2:15 PM
To: 'Richard Grant'
Cc: Viliu Spangler Khare
Subject: CF Bolster Default Matters

Hi Richard,

It was great talking with you today.

As discussed, it is likely that we will not be able to agree to a stipulation to set aside the defaults and default judgments in the above matters. Assuming that Great American is required to file Motions to Vacate the Defaults/Default Judgments in these matters, you have agreed that Plaintiffs will not argue lack of diligence in seeking to set aside the defaults/default judgments by Great American from the date of the notice letter from your office (dated May 21, 2020 and received by Great American on May 28, 2020) forward. We further agreed to determine whether there is any possibility of settling any of these matters prior to Great American drafting and filing such Motions.

Thanks again, and lets try to follow up by early next week. Take care.

Best,

Laurie

Laurie Julien
Berkes Crane Robinson & Seal LLP
515 S. Figueroa Street, Suite 1500
Los Angeles, CA 90071

EXHIBIT R

From: Richard Grant [mailto:RGrant@braytonlaw.com]
Sent: Wednesday, May 12, 2021 4:13 PM
To: Laurie S. Julien
Subject: Re: FW: [External] CF Bolster Default Matters

i can give another 10 days for us to see what we can do.

*Please be advised that Brayton*Purcell is complying with CDC guidelines and operating as a virtual office available via phone and e-mail due to the coronavirus crisis. As you are able, please forward correspondence and documents electronically. Receipt of and response to physical mailings may be delayed. Be safe and thank you in advance for your cooperation.*

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>>> "Laurie S. Julien" <ljulien@bcrslaw.com> 5/12/2021 4:05 PM >>>

See agreement. Looks like it was open-ended, but please confirm that plaintiffs will not argue lack of diligence from the date of the notice letter forward.

From: Laurie S. Julien
Sent: Tuesday, October 13, 2020 2:15 PM
To: 'Richard Grant'
Cc: Viiu Spangler Khare
Subject: CF Bolster Default Matters

Hi Richard,

It was great talking with you today.

As discussed, it is likely that we will not be able to agree to a stipulation to set aside the defaults and default judgments in the above matters. Assuming that Great American is required to file Motions to Vacate the Defaults/Default Judgments in these matters, you have agreed that Plaintiffs will not argue lack of diligence in seeking to set aside the defaults/default judgments by Great American from the date of the notice letter from your office (dated May 21, 2020 and received by Great American on May 28, 2020) forward. We further agreed to determine whether there is any possibility of settling any of these matters prior to Great American drafting and filing such Motions.

Thanks again, and lets try to follow up by early next week. Take care.

Best,

EXHIBIT S

FILED
Superior Court of California
County of Los Angeles

JUL 20 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By Heather Flores-Hernandez, Deputy
Heather Flores-Hernandez

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JUL 20 2020
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1 ALAN R. BRAYTON, ESQ., S.B. #73685
2 DAVID R. DONADIO, ESQ., S.B. #154436
3 RICHARD M. GRANT, ESQ., S.B. #55677
rgrant@braytonlaw.com
3 BRAYTON PURCELL LLP
4 Attorneys at Law
222 Rush Landing Road
P.O. Box 6169
5 Novato, California 94948-6169
(415) 898-1555
6 Attorneys for Plaintiffs
7

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

RECEIVED
JUL 20 2020

10
11 LAOSD ASBESTOS CASES)
12)
13 RAYMOND STEADMAN and DAWN)
STEADMAN)
14 Plaintiffs,)
vs.)
15 ASBESTOS CORPORATION LIMITED,)
et al.,)
16 Defendants.)
17)
18)
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21)
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)
ASBESTOS
No. JCCP 4674)
FAX FILE
No. BC496102
PLAINTIFFS' NOTICE OF
CONDITIONAL NON-OPPOSITION TO
CNA AND HARBOR INSURANCE
COMPANY'S MOTION TO (1) SET
ASIDE DEFAULT AND DEFAULT
JUDGMENT AND (2) GRANT LEAVE TO
FILE AN ANSWER IN INTERVENTION

Date: July 2, 2020
Time: 9:00 a.m.
Dept.: 15
Judge: Hon. Maurice A. Leiter

Complaint Filed: November 21, 2012

Plaintiffs do not oppose an Order granting CNA AND HARBOR INSURANCE COMPANY ("CNA/HARBOR") motion to set aside the default judgment for enforcement purposes against CNA/HARBOR only, but not the default, or the judgment for purposes of enforcement against any person or entity other than CNA/ HARBOR , e.g alter egos or other insurance companies.

CNA/HARBOR may be granted leave to file an answer to the Complaint on the condition that CNA/HARBOR immediately file its Answer to the Complaint, accepting the jurisdiction of this Court.

1 The entry of default entered against ALEX ROBERTSON COMPANY ("Robertson")
2 should not set be aside, since, in any event, it is unenforceable against CNA/HARBOR as the
3 insurer of Robertson. The default entered against Robertson has no effect on CNA/HARBOR
4 as its insurers and CNA/HARBOR are not bound by a default taken against their insured.
5 *Western Heritage v. Superior Court* (2011) 199 Cal. App. 4th 1196, 1198-1199. See also
6 *Reliance Ins. Co. v. Superior Court* (2000) 84 Cal. App. 4th 383. CNA/HARBOR shall
7 intervene, but the default should remain. Additionally, CNA/HARBOR has neither standing
8 nor authority to set aside the default against a suspended corporation that is itself prohibited
9 from participating in any way in this proceeding. It may set aside a default judgment that could
10 be used against it, but may not set aside the default itself. "A party permitted to intervene is
11 permitted to do so in order to pursue its *own interests*. Once permitted to intervene, it is a party
12 to the action not bound by other parties' procedural defaults."

13 (*Western Heritage, supra*, at 1207, emphasis the Court's)

14 Accordingly, there is no reason to set aside the default.

15 Plaintiffs have no opposition to the entry of an order stating:

16 "The entry of default entered against ALEX ROBERTSON COMPANY is not
17 set aside, but is unenforceable against CNA AND HARBOR INSURANCE COMPANY as the
18 insurers of Robertson. The default judgment is set aside as to the interests of CNA AND
19 HARBOR INSURANCE COMPANY only and shall not be used or enforced against CNA
20 AND HARBOR INSURANCE COMPANY. Otherwise the default judgment remains in place.

21 "CNA AND HARBOR INSURANCE COMPANY shall be allowed to
22 intervene in this action on behalf of its insured, Robertson, by filing its Answer in Intervention,
23 and upon being granted leave by the Court, shall file its Answer in Intervention.

24 "Nothing in this order prohibits plaintiff from seeking judgment or enforcement
25 of a judgment against any person or entity other than CNA AND HARBOR INSURANCE
26 COMPANY."

27 ///

28 ///

1 Plaintiffs also request that CNA AND HARBOR INSURANCE COMPANY be
2 responsible, and reimburse plaintiffs, for any duplicative discovery costs incurred by plaintiffs
3 as a result of CNA AND HARBOR INSURANCE COMPANY'S late appearance in this action.

4

5 Dated: July 17, 2020

BRAYTON♦PURCELL LLP

6 By:

7 
Richard M. Grant
8 Attorneys for Plaintiffs

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BRAYTON
ATTORNEYS AT LAW
222 RUSH LANDING ROAD
NOVATO, CALIFORNIA 94948-6169
PURCHASED BY-1555

1

2

PROOF OF SERVICE BY FILE & SERVEXPRESS

3

I am employed in the County of Marin, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 222 Rush Landing Road, P.O. Box 6169, Novato, California, 94948-6169.

4

5

On July 17, 2020, I caused electronic service (E-Service) of the following documents:

6

7

PLAINTIFFS' NOTICE OF CONDITIONAL NON-OPPOSITION TO CNA AND HARBOR INSURANCE COMPANY'S MOTION TO (1) SET ASIDE DEFAULT AND DEFAULT JUDGMENT AND (2) GRANT LEAVE TO FILE AN ANSWER IN INTERVENTION

8

on the interested parties in this action by causing File & ServeXpress E-service program to transmit a true copy thereof to the following party(ies):

9

10

SEE ATTACHED SERVICE LIST

11

12

13

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The above document was transmitted by File & ServeXpress E-Service and the transmission was reported as complete and without error.

Executed on July 17, 2020, at Novato, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Shawna Mahoney

Shawna Mahoney

Dawn Steadman, et al. v. Asbestos Corporation Limited, et al.
Los Angeles Superior Court Case No. BC496102, Consolidated with BC505669/Coordinated with JCCP4674

Brayton-Purcell Service List

Date Created: 07/17/2020 03:11 PM

Matter Numbers: 22310.004-Dawn Darlene Steadman

Run by: Shawna Mahoney

Hugo Parker, LLP

240 Stockton Street, 8th Floor
San Francisco, CA 94108
415-808-0300 415-808-0333 (fax)

Defendants

CNA and Harbor Insurance Company, as
insurers of Alex Robertson Company, a
suspended California Corporation
(CNAARO)

ED
ED

EXHIBIT T

1 BERKES CRANE ROBINSON & SEAL LLP
Viu Spangler Khare (SBN 190429)
2 *vspanglerkhare@bcrslaw.com*
Laurie S. Julien (SBN 136974)
3 *ljenien@bcrslaw.com*
Narine Levonyan (SBN 316631)
4 *nlevonyan@bcrslaw.com*
Taylor M. Matsumoto (SBN 302932)
5 *tmatsumoto@bcrslaw.com*
515 South Figueroa Street, Suite 1500
6 Los Angeles, California 90071
Telephone: (213) 955-1150
7 Facsimile: (213) 955-1155

8 Attorneys for [Proposed] Intervenor GREAT
AMERICAN INSURANCE COMPANY
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN FRANCISCO**
12

13 YSIDRO LIMON, SR.,

CASE No. CGC-15-276378

14 Plaintiff,

[PROPOSED] COMPLAINT-IN-INTERVENTION

16 AMCORD, INC., et al.,

[Filed Concurrently with Notice of Motion and
Motion; Memorandum of Points and
Authorities; Declaration of Laurie S. Julien;
Declaration of Flo-Ann Wilson; Evidentiary
Packet; Request for Judicial Notice;
(Proposed) Order]

17 v.
Defendants.

Date: September 16, 2021
Time: 9:30 a.m.
Dept.: 503

22 The Hon. Cynthia Ming-Mei Lee

23 Action Filed: October 18, 2011
Trial Date: None
24

26 By leave of court, [Proposed] Intervenor GREAT AMERICAN INSURANCE
27 COMPANY ("Great American") on behalf of its insured, C.F. Bolster Company ("CF Bolster")
28 and solely in its capacity as insurer for CF Bolster, hereby intervenes in this action, and hereby

1 demands adversely to Plaintiff YSIDRO LIMON ("Plaintiff"), as follows:

2 1. This action was commenced by Plaintiff against CF Bolster and seeks recovery
3 under various causes of action arising from the alleged use of asbestos-containing products and/or
4 asbestos-related activities.

5 2. Great American is informed and believes and thereupon alleges that CF Bolster is a
6 California corporation which has been dissolved. Although CF Bolster is able to appear and
7 defend as a dissolved corporation, CF Bolster did not initially appear in this action, and a default
8 has been entered against it. Therefore, CF Bolster is unable to appear in the lawsuit.

9 3. Great American issued primary liability insurance to CF Bolster under policy no.
10 BP 3460472, with a policy period from January 1, 1974 to January 1, 1977, and policy no. BP
11 2031010, with a policy period from July 1, 1979 to July 1, 1982. Based thereon, Great American
12 has agreed to defend CF Bolster in this action, subject to a reservation of rights.

13 4. As a liability insurer of CF Bolster, Great American has an interest in this litigation
14 and the success of CF Bolster in this action, as alleged below. Thus, intervention is proper under
15 California Code of Civil Procedure section 387(a).

16 5. This intervention by Great American is limited to contesting CF Bolster's alleged
17 liability and the amount of damages, if any. To the extent any coverage issues exist, these issues
18 are reserved for a future time.

19 6. Great American, solely in its capacity as insurer for CF Bolster, pleads the
20 following Answer, General Denial and Affirmative Defenses to the Complaint filed by Plaintiff:

21 **GENERAL DENIAL**

22 Great American, solely in its capacity as an insurer for CF Bolster, generally denies each
23 and every allegation contained in the Complaint, as permitted by California Code of Civil
24 Procedure section 431.30(d), and further denies that Plaintiff has been damaged as alleged, or at
25 all, by reason of any act or omission on the part of CF Bolster or its agents, servants or employees.

26 **AFFIRMATIVE DEFENSES**

27 Great American, solely in its capacity as an insurer for CF Bolster, alleges the following
28 affirmative defenses to the Complaint:

1 **FIRST AFFIRMATIVE DEFENSE**

2 Plaintiff has failed to state facts sufficient to constitute a claim or causes of action upon
3 which relief may be granted as against CF Bolster.

4 **SECOND AFFIRMATIVE DEFENSE**

5 The entire Complaint, and each cause of action thereof, is barred by the limitations and
6 repose periods set forth in California Code of Civil Procedure §§337(1)-(3), 337.1(a)-(f),
7 337.15(a)-(g), 338(a)-(k), 338.1; 339(1)-(3), 340(a) (e), 340.2(a)-(c), 343, 353.1, 355, and 361, and
8 all other applicable limitations periods, including any limitations and/or repose periods of foreign
9 jurisdictions that may be determined during the course of discovery to be applicable.

10 **THIRD AFFIRMATIVE DEFENSE**

11 The entire Complaint, and each cause of action thereof, is barred because Plaintiff has
12 failed to comply with the provisions of California Code of Civil Procedure §411.35.

13 **FOURTH AFFIRMATIVE DEFENSE**

14 Plaintiff has failed to join all proper parties necessary for a full and just adjudication of the
15 purported causes of action in the Complaint, or alternatively, have misjoined the parties to this
16 action.

17 **FIFTH AFFIRMATIVE DEFENSE**

18 Plaintiff lacks standing to sue CF Bolster.

19 **SIXTH AFFIRMATIVE DEFENSE**

20 Plaintiff Ysidro Limon was careless and negligent and acted unreasonably in or about the
21 things alleged in the Complaint, which conduct actually and proximately caused all or part of
22 Plaintiff's claimed injuries and damages, if any. Any damages which Plaintiff seeks to recover
23 from CF Bolster must be reduced or barred in proportion to the extent that Plaintiff's own
24 negligence contributed to the claimed injuries or damages.

25 **SEVENTH AFFIRMATIVE DEFENSE**

26 All or part of Decedent's and Plaintiff's injuries or damages, if any, were actually and
27 proximately caused by the conduct of third parties, and not CF Bolster.

28 ///

1 EIGHTH AFFIRMATIVE DEFENSE

2 The Complaint improperly attempts to assert liability under the theory of market share
3 liability as postulated by *Sindell v. Abbott Laboratories* (1980) 26 Cal.3d 588. However, market
4 share liability has been expressly rejected in asbestos cases under *Mullen v. Armstrong World*
5 *Industries* (1988) 200 Cal.App.3d 250, with the very limited exception in brake exposure cases
6 under *Wheeler v. Raybestos Manhattan* (1992) 8 Cal.App.4th 1152.

7 NINTH AFFIRMATIVE DEFENSE

8 At all times mentioned, Decedent had knowledge of the risks of the matters set forth in the
9 Complaint, as well as the magnitude of the risks, and thereafter, knowingly, willingly and
10 voluntarily assumed those risks.

11 TENTH AFFIRMATIVE DEFENSE

12 The entire Complaint, and each cause of action thereof, is barred as against CF Bolster by
13 the provisions of California Labor Code §§3600, et seq.

14 ELEVENTH AFFIRMATIVE DEFENSE

15 The entire Complaint, and each cause of action thereof, is barred because the products and
16 materials, which Plaintiff alleges caused the alleged injuries and damages, conformed to
17 specifications and plans promulgated and approved by the United States government.

18 TWELFTH AFFIRMATIVE DEFENSE

19 The entire Complaint, and each cause of action thereof, fails to state a cause of action
20 against CF Bolster because the federal government has preempted the field of law applicable to
21 the products alleged to have caused Plaintiff's injuries, or the claims forming the basis for relief.
22 The granting of the relief prayed for in the Complaint would impede, impair, frustrate and/or
23 burden the effectiveness of federal law regulating the field and would violate the Supremacy
24 Clause contained in Article VI, Clause 2 of the United States Constitution.

25 THIRTEENTH AFFIRMATIVE DEFENSE

26 The entire Complaint, and each cause of action thereof, is barred because the products and
27 materials, which Plaintiff alleges caused the alleged injuries and damage, were manufactured,
28 installed, used or distributed in compliance with specifications provided by third parties to CF

1 Bolster and/or in compliance with all applicable health and safety statutes and regulations.

2 **FOURTEENTH AFFIRMATIVE DEFENSE**

3 The state of medical and scientific knowledge and published literature and materials
4 reflecting such state of medical and scientific knowledge, at all times pertinent hereto, was such
5 that CF Bolster neither knew, nor could have known, that the construction activities in issue
6 presented a foreseeable risk of harm to Decedent or Plaintiff.

7 **FIFTEENTH AFFIRMATIVE DEFENSE**

8 The entire Complaint, and each cause of action thereof, is barred on the grounds the
9 products or materials referred to in the Complaint, if any, were not a substantial factor in bringing
10 about the injuries and damages alleged by Plaintiff.

11 **SIXTEENTH AFFIRMATIVE DEFENSE**

12 The entire Complaint, and each cause of action thereof, is barred as against CF Bolster by
13 the doctrine of waiver.

14 **SEVENTEENTH AFFIRMATIVE DEFENSE**

15 Any defect or danger in or about the premises was trivial.

16 **EIGHTEENTH AFFIRMATIVE DEFENSE**

17 CF Bolster alleges that Plaintiff's claims against it are barred by the holding of *Privette v.*
18 *Superior Court* (1993) 5 Cal.4th 689.

19 **NINETEENTH AFFIRMATIVE DEFENSE**

20 Plaintiff's Complaint fails to state facts sufficient to entitle Plaintiff to an award of punitive
21 or exemplary damages against CF Bolster.

22 **TWENTIETH AFFIRMATIVE DEFENSE**

23 Plaintiff is not entitled to an award of punitive or exemplary damages in this action. Such
24 an award would be unconstitutional unless CF Bolster is accorded the safeguards provided under
25 the Constitution of the State of California and the Fourth, Fifth, Sixth, Eighth and Fourteenth
26 Amendments to the United States Constitution.

27 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

28 Plaintiff unreasonably delayed in bringing this action, without good cause, and thereby has

1 prejudiced CF Bolster as a direct and proximate result of such delay; accordingly, Plaintiff's
2 action is barred by laches.

3 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

4 Any loss, injury or damage suffered or incurred by Plaintiff was proximately caused by the
5 negligent or willful acts or omissions of parties whom CF Bolster neither controlled nor had the
6 right to control, and was not proximately caused by any acts, omissions or other conduct of CF
7 Bolster.

8 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

9 Plaintiff failed to exercise due diligence to mitigate Plaintiff's loss, injury or damages;
10 accordingly, the amount of damages to which Plaintiff is entitled, if any, should be reduced by the
11 amount of damages which would have otherwise been mitigated.

12 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

13 At the time of the injuries alleged in the Complaint, Decedent was employed and entitled
14 to receive workers' compensation benefits from his employers; that Decedent's employers, other
15 than CF Bolster, may have been negligent in and about the matters referred to in said Complaint,
16 and that such negligence on the part of said employers proximately and concurrently contributed
17 to the happening of the accident and to the loss or damage complained of by Plaintiff, if any there
18 were; and that by reason thereof CF Bolster is entitled to set off any such benefits received or to be
19 received by Plaintiff against any judgment which may be rendered in favor of Plaintiff.

20 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

21 At the time of the injuries alleged in the Complaint, parties other than CF Bolster were
22 negligent in and about the matters referred to in the Complaint, and such negligence on the part of
23 third parties proximately and concurrently contributed to any loss or damage, including non-
24 economic damages, if any. CF Bolster is not liable for any third parties' proportionate share of
25 Plaintiff's non-economic damages.

26 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

27 The Complaint, and every purported cause of action against CF Bolster, is barred by the
28 "sophisticated user" doctrine recognized in *Johnson v. American Standard, Inc.* (2008) 43 Cal.4th

1 56. Plaintiff Ysidro Limon and his employers were sophisticated users of asbestos-containing
2 products and knew or should have known of the risk, harm, or danger, if any, posed by CF
3 Bolster's activities, or the use of its products, at issue in this case.

4 **TWENTY- SEVENTH AFFIRMATIVE DEFENSE**

5 To the extent Decedent has received workers' compensation benefits from CF Bolster
6 under the California Labor Code as a consequence of the alleged industrial injury referred to in the
7 Complaint, and in the event CF Bolster is held liable to Plaintiff, any award against CF Bolster
8 must be reduced by the amount of all such benefits received.

9 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

10 To the extent Decedent has received workers' compensation benefits from CF Bolster
11 under the California Labor Code as a consequence of the alleged industrial injury referred to in the
12 Complaint, and in the event Plaintiff is awarded damages against CF Bolster, CF Bolster claims a
13 credit against such award to the extent CF Bolster is barred from enforcing its rights to
14 reimbursement against workers' compensation benefits that Decedent has received.

15 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

16 To the extent Decedent has received workers' compensation benefits from CF Bolster
17 under the California Labor Code as a consequence of the alleged industrial injury referred to in the
18 Complaint, CF Bolster demands repayment of any such workers' compensation benefits in the
19 event that Plaintiff recovers tort damages as a result of the industrial injury allegedly involved
20 here. Although CF Bolster denies the validity of Plaintiff's claims, in the event those claims are
21 held valid and not barred by the statute of limitations or otherwise, CF Bolster asserts that cross-
22 demands for money have existed between Plaintiff and CF Bolster and the demands are
23 compensated, so far as they equal each other, pursuant to California Code of Civil Procedure
24 §431.70.

25 **THIRTIETH AFFIRMATIVE DEFENSE**

26 At all times and places mentioned in the Complaint, Plaintiff was not in privity of contract
27 with CF Bolster. Therefore, a may not rely upon the theory of any alleged breach of express or
28 implied warranty, and all claims predicated on any theory of warranty are barred.

1 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

2 This court lacks subject matter jurisdiction over the entire Complaint and the causes of
3 action alleged in the Complaint, or alternatively that the Court lacks jurisdiction due to
4 insufficiency of process or the service and/or improper venue.

5 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

6 As a result of Plaintiff's unreasonable delay in bringing this action, without good cause, in
7 addition to his other unreasonable acts and omissions, Plaintiff has waived some or all of the
8 claims stated or purportedly stated in the Complaint.

9 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

10 The activity alleged in the Complaint, to the extent it was engaged in by CF Bolster, if at
11 all, was not ultra-hazardous under California law.

12 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

13 California Civil Code §§1431.1– 1431.5, known as the Fair Responsibility Act of 1986, are
14 applicable to the present action and to certain claims therein, and based upon the principle of
15 comparative fault, the liability, if any, of CF Bolster, shall be several only and shall not be joint.
16 CF Bolster, if liable at all, shall be liable as to certain claims only for the amount of non-economic
17 damages allocated to CF Bolster in direct proportion to CF Bolster's percentage of fault, if any,
18 and a separate and several judgment shall be rendered against CF Bolster for non-economic
19 damages, if any.

20 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

21 Plaintiff cannot prove any facts showing that the conduct of CF Bolster was the cause in
22 fact of any injuries or damages suffered by Plaintiff as alleged in the Complaint.

23 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

24 Plaintiff cannot prove any facts showing that the conduct of CF Bolster was the proximate
25 cause of any alleged injuries or damages suffered by Plaintiff as alleged in the Complaint.

26 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

27 If Decedent was injured as alleged in the Complaint, those injuries were proximately
28 caused by allergies, sensitivities and idiosyncrasies particular to Decedent, not found in the

1 general public and unknown and unknowable to CF Bolster. Such injuries, if any, were not
2 reasonably foreseeable to CF Bolster.

3 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

4 At all times relevant, CF Bolster's acts and omissions were in conformity with all
5 government statutes and regulations and all industry standards based upon the state of knowledge
6 existing at the time of the acts or omissions.

7 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

8 Decedent and/or Plaintiff directed, ordered, approved and/or ratified CF Bolster's conduct.
9 Therefore, Plaintiff is estopped from asserting the claims alleged in the Complaint which result
10 from Decedent or Plaintiff's own acts, conduct or omissions.

11 **FORTIETH AFFIRMATIVE DEFENSE**

12 CF Bolster refers to and incorporates herein by reference each and every affirmative
13 defense pleaded by the other parties to this action the extent that such defenses are not inconsistent
14 with the matters stated herein.

15 **FORTY-FIRST AFFIRMATIVE DEFENSE**

16 Plaintiff's Complaint and each and every cause of action therein based upon warranty or
17 breach thereof, is barred as a result of failure of Plaintiff to give notice required under Commercial
18 Code §2607(3)(a).

19 **FORTY-SECOND AFFIRMATIVE DEFENSE**

20 To the extent Plaintiff claim(s), or may claim, injury or damage caused by work performed
21 by CF Bolster for, or under the direction and control of, the United States Government, Plaintiff's
22 claims are barred by the "government contractor defense" as articulated in *Boyle v. United Techs,*
23 *Inc.* (1988) 487 U.S. 500 as CF Bolster, in performing such work, did so in conformity with
24 detailed specifications which were created or approved by the United States Government and as
25 the United States Government was, at all relevant times, independently aware of health hazards
26 potentially associated with certain asbestos exposures.

27 **FORTY-THIRD AFFIRMATIVE DEFENSE**

28 Plaintiff's instant action is barred and discharged, pursuant to Title 11 U.S.C. section

1 1141(d), and that Plaintiff's action violates the pending injunction against such claims that exists,
2 by operation of law, pursuant to Title 11 U.S.C. section 524(a)(2).

3 **FORTY-FOURTH AFFIRMATIVE DEFENSE**

4 Defendant alleges that Plaintiff's entire Complaint, is barred by the Statute of Frauds to the
5 extent that any such causes of action are based on alleged oral agreements.

6 **FORTY-FIFTH AFFIRMATIVE DEFENSE**

7 CF Bolster's alleged actions, which are the subject of the Complaint, were lawful and/or
8 justified.

9 **FORTY-SIXTH AFFIRMATIVE DEFENSE**

10 Defendant alleges that any danger or defect on the premises was obvious or could have
11 been observed by Plaintiff's exercise of reasonable care.

12 **FORTY-SEVENTH AFFIRMATIVE DEFENSE**

13 CF Bolster alleges that Plaintiff's complaint, and each and every cause of action therein, is
14 barred by the applicable statute of limitations, including but not limited to California Code of Civil
15 Procedure section 335.1, 340.2(a)(1) 340.2(a)(2), 340.2(c)(1) and 340.2(c)(2).

16 **FORTY-EIGHTH AFFIRMATIVE DEFENSE**

17 CF Bolster alleges that Plaintiff has improperly split their causes of action and seek to
18 maintain a duplicative lawsuit based on the same facts and circumstances as a lawsuit previously
19 filed.

20 **FORTY-NINTH AFFIRMATIVE DEFENSE**

21 CF Bolster has insufficient knowledge or information on which to form a belief as to
22 whether it may have additional, as yet unstated, defenses available. CF Bolster expressly reserves
23 the right to assert additional defenses.

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28 ///

1 WHEREFORE, CF Bolster prays for judgment as follows:

- 2 1. That Plaintiff take nothing by way of its Complaint or any cause of action thereof
3 against CF Bolster;
- 4 2. That the Court award judgment in favor of CF Bolster;
- 5 3. For reasonable attorneys' fees;
- 6 4. For costs of suit and disbursements; and
- 7 5. For such other and further relief as the Court may deem proper.

8

9 DATED: _____, 2021 BERKES CRANE ROBINSON & SEAL LLP

10

11 By: _____

12 VIU SPANGLER KHARE
13 LAURIE S. JULIEN
14 NARINE LEVONYAN
15 TAYLOR M. MATSUMOTO
16 Attorneys for [Proposed] Intervenor GREAT
17 AMERICAN INSURANCE COMPANY

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EXHIBIT U

Brayton & Purcell LLP

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GARY V. RIDD (1952-2019)

May 21, 2020

VIA U.S. MAIL

Great American Insurance Company
(formerly known as American Continental Insurance Company)
301 E. Fourth Street
Cincinnati, OH 45202

Re: Your insureds: Carroll Duncan & Co.; and C.F. Bolster Company defendants
in the following actions:
Roger Carr v. Kaiser Gypsum Company, Inc., et al.
Los Angeles Superior Court Case No. BC520044/JCCP 4674;
Barbara Cooper, et al. v. Dowman Products, Inc., et al.
Los Angeles Superior Court Case No. BC495793;
Carl Huck v. Kaiser Gypsum Company, Inc., et al.
Los Angeles Superior Court Case No. BC522509;
Ysidro Limon, Sr. v Amcord, Inc. et al.
San Francisco Superior Court Case No. CGC-15-276378;
Richard Luros, M.D. v. Amcord, Inc. et al.
Alameda Superior Court Case No. RG11600370;
Melvin Neill v. Asbestos Defendants (B&P)
Los Angeles Superior Court Case No. BC484917;
Dawn Steadman, et. al. v. Asbestos Corporation Limited, et. al.
Los Angeles Superior Court Case No. BC496102; and,
Chris Votino, Sr. v. Kaiser Gypsum, et al.
San Francisco Superior Court Case No. CGC-15-276414

Greetings:

We have reason to believe that you issued general liability and umbrella liability insurance covering Carroll Duncan & Co. and C.F. Bolster Company. Our office represents the

Plaintiffs in the above-referenced action who are third party beneficiaries under the insurance policies issued to the defendants in the complaint.

The plaintiffs in the above-referenced actions have obtained default judgments against these defendants. A copy of the default judgments are enclosed with this letter and summarized as follows:

Action	Defendant	Judgment Date	Judgment Amount
Carr	C.F. Bolster Company	May 25, 2017	\$2,288,369.03
Carr	Carroll Duncan & Co.	February 9, 2017	\$1,804,600.00
Cooper	C.F. Bolster Company	June 8, 2017	\$1,401,241.88
Huck	C.F. Bolster Company	November 29, 2017	\$831,250.00
Huck	Carroll Duncan & Co.	November 29, 2017	\$831,250.00
Limon	C.F. Bolster Company	September 21, 2017	\$828,061.04
Limon	Carroll Duncan & Co.	September 21, 2017	\$828,061.04
Luros	Carroll Duncan & Co.	August 8, 2014	\$3,944,050.00
Neill	Carroll Duncan & Co.	August 31, 2016	\$1,186,299.00
Steadman	C.F. Bolster Company	July 18, 2017	\$3,669,279.67
Steadman	Carroll Duncan & Co.	July 18, 2017	\$1,922,207.00
Votino	C.F. Bolster Company	October 3, 2017	\$842,500.00
Votino	Carroll Duncan & Co.	October 3, 2017	\$842,500.00

Accordingly, this is hereby to provide notice and demand for coverage pursuant to any and all applicable policies of insurance issued at any time by to the defendant companies so indicated in the enclosed complaint, including but not limited to Carroll Duncan & Co.; and C.F. Bolster Company, under California Insurance Code §11580(b)(2). This is also hereby to demand that you search your records immediately and provide copies of all policies of insurance issued at any time to or covering Carroll Duncan & Co.; and C.F. Bolster Company.

Please forward to us any insurance certificates, policies or other writings in your possession describing insurance coverage and any other records you have pertaining for Carroll Duncan & Co.; and C.F. Bolster Company. If we do not hear from you within 30 days, we may either proceed to notice depositions in this action to further explore coverage, or alternatively we may simply proceed to prove up damages and perfect the default judgment, then apply to the Court to subpoena these records and seek a judgment debtor exam (third party) under California Code of Procedure § 708.120. As a result of you having been put on notice and given the opportunity to intervene, we will resist any effort to set aside the default judgment once the prove-up is complete.

If you contend that insurance coverage for Carroll Duncan & Co. and/or C.F. Bolster Company is exhausted, please provide proof of exhaustion.

The undersigned counsel is authorized to make the foregoing demands. Please transmit all of the requested insurance policies to the following address:

Alan R. Brayton
Brayton♦Purcell LLP
222 Rush Landing Rd.
Novato, California 94948-6169

If you are not the correct person in your organization to deal with the subject matter of this communication, please forward this communication to the responsible individual or department in your organization.

Very truly yours,

/s/ Alan R. Brayton

Alan R. Brayton

JMD:ccl

Enclosure(s): Default Judgments