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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMONS PLEAS

COUNTY OF RICHLAND

CIVIL ACTION NO. 2022-CP-40-03834

Melvin G. Welch and Donna G. Welch,

Plaintiffs,

vs.

3M Company, et al.,

Defendants.

EXHIBIT

1

RICHARD DUFOUR AFFIDAVIT

DISTRICT OF FRONTENAC)

PROVINCE OF QUEBEC)

I, Richard Dufour, being first duly sworn, depose and state:

1. I am over the age of eighteen and am competent to make this Affidavit.

2. I am counsel to Atlas Turner, Inc. I know the truth of the following and could and would testify competently as follows:

3. Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Third Amended Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner, Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

4. Atlas Turner, Inc., is a corporation organized and existing under the laws of Canada, and is headquartered in the Province of Quebec.

ELECTRONICALLY FILED - 2023 Mar 20 2:14 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4003834
ELECTRONICALLY FILED - 2022 Dec 30 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4003834

5. Atlas Turner, Inc. has never held a Certificate of Authority to do business in South Carolina.
6. Atlas Turner, Inc. does not now, nor did it ever own, lease or otherwise use any real property in South Carolina.
7. Atlas Turner, Inc. never owned or operated any manufacturing facility in South Carolina.
8. Atlas Turner, Inc. never commenced any litigation in South Carolina.
9. Atlas Turner, Inc. never maintained any bank accounts in South Carolina.
10. Atlas Turner, Inc. ceased all operations of any kind in 1986.
11. Atlas Turner, Inc. has no current employees at all.
12. Atlas Turner, Inc. has no records of sales to any company in South Carolina prior to 1968.
13. Atlas Turner, Inc. never manufactured or sold asbestos containing friction products such as automobile brakes, clutches, or gaskets.
14. Atlas Turner, Inc. has no former employees competent to testify to the topics listed on the 30(b)(6) Notices of Deposition in this case, and for the most part Atlas Turner, Inc. does not even maintain or possess the records that would be necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notices of deposition.
15. To the extent that relevant records do exist, their production would be prohibited by the Quebec Business Concerns Records Act as interpreted by the courts in Canada and the Province of Quebec.

SIGNATURE ON NEXT PAGE

FURTHER AFFIANT SAYETH NOT.


Richard Dufour

Subscribed and sworn to before me this,
the 28th day of December, 2022




my commission expires March 2, 2023

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) CIVIL ACTION NO. 2022-CP-40-03834
Melvin G. Welch and Donna B. Welch,)
Plaintiffs,)
vs.)
3M Company, et al.,)
Defendants.)

EXHIBIT

2

RICHARD DUFOUR AFFIDAVIT

DISTRICT OF FRONTENAC)
PROVINCE OF QUEBEC)

I, Richard Dufour, being first duly sworn, depose and state:

1. I am over the age of eighteen and am competent to make this Affidavit.
2. I am counsel to Atlas Turner, Inc. ("Atlas Turner"). The facts set forth in this Affidavit are true to the best of my knowledge, information and belief.
3. Since its incorporation, Atlas Turner has been and is a corporation incorporated and organized under the laws of Canada with its principal place of business in the Province of Quebec, Canada. Atlas Turner never mined or milled asbestos. Atlas Turner did manufacture asbestos-containing products but all sales of said products were made F.O.B. Montreal, Quebec, Canada and all payments were made to it in Montreal, Quebec, Canada.
4. Atlas Turner is not now and never has been a corporation organized under the laws of the State of South Carolina, and Atlas Turner has no subsidiary company that did business in the State of South Carolina. Atlas Turner is not presently, nor has it ever been,

registered with the State of South Carolina, nor has Atlas Turner ever applied for authority to do business within the State of South Carolina.

5. Atlas Turner has never appointed nor authorized any agent to accept process for it for suit in the State of South Carolina. Atlas Turner did not maintain, nor has it ever maintained, an office within the State of South Carolina. Atlas Turner had no bank accounts in the State of South Carolina and did not own any real property in the State of South Carolina. Atlas Turner has never transacted business in the State of South Carolina. Atlas Turner has never made a contract within the State of South Carolina.

6. Atlas Turner has paid no taxes or fees in the State of South Carolina and did not maintain any employees, officers, or agents in the State of South Carolina.

FURTHER AFFIANT SAYETH NOT.


Richard Dufour

Subscribed and sworn to before me
this, the 7th day of September, 2022


COMMISSIONER OF OATHS FOR THE JUDICIAL DISTRICT
OF FRONTENAC, PROVINCE OF QUEBEC



STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

**MELVIN G. WELCH and
DONNA B. WELCH**

Plaintiffs,

v.

3M COMPANY

f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY

ACCEL PERFORMANCE GROUP LLC

f/k/a PRESTOLITE PERFORMANCE LLC,
successor to HAYES PERFORMANCE
BRAKES

ADVANCE AUTO PARTS, INC.

AMERICAN HONDA MOTOR CO., INC.

ATLAS ASBESTOS CO

ATLAS TURNER, INC.

as successor to ATLAS ASBESTOS CO, a
foreign company

AUTOZONE, INC.

BAHNSON, INC.

BEATY INVESTMENTS, INC.

f/k/a GUY M. BEATY & CO.

BELDEN INC.

d/b/a BELDEN 2010 INC.

BELDEN WIRE & CABLE COMPANY

BRIDGESTONE AMERICAS TIRE

OPERATIONS, LLC

f/k/a BRIDGESTONE FIRESTONE NORTH
AMERICAN TIRE, LLC

C/A NO. 2022-CP-40-_____

In Re:

Asbestos Personal Injury Litigation
Coordinated Docket

Living Mesothelioma

COMPLAINT

(Jury Trial Demanded)

EXHIBIT

3.1

CAROLINA TOOL COMPANY	)
	)
COPELAND CORPORATION LLC	)
	)
COVIL CORPORATION	)
	)
DANIEL INTERNATIONAL CORPORATION	)
	)
DAVIS MECHANICAL CONTRACTORS, INC.	)
	)
DCO LLC	)
individually and as successor-in-interest to	)
VICTOR GASKET MANUFACTURING	)
COMPANY	)
	)
EATON CORPORATION	)
	)
ELLINGTON INSULATION COMPANY, INC.	)
	)
FISHER CONTROLS INTERNATIONAL LLC	)
	)
FLUOR CONSTRUCTORS INTERNATIONAL	)
f/k/a FLUOR CORPORATION	)
	)
FLUOR CONSTRUCTORS INTERNATIONAL, INC.	)
	)
FLUOR DANIEL SERVICES CORPORATION	)
	)
FLUOR ENTERPRISES, INC.	)
	)
FORD MOTOR COMPANY	)
	)
GENERAL ELECTRIC COMPANY	)
	)
GENERAL PARTS, INC.	)
individually and as successor-in-interest to	)
CARQUEST CORPORATION	)
	)
GENUINE PARTS COMPANY	)
d/b/a NAPA	)

GOODRICH CORPORATION

f/k/a THE B. F. GOODRICH COMPANY

**THE GOODYEAR TIRE & RUBBER
COMPANY**

GRAYBAR ELECTRIC COMPANY, INC.

**HEAT & FROST INSULATION
COMPANY, INC.**

HENNESSY INDUSTRIES, LLC

f/k/a HENNESSY INDUSTRIES, INC.

HONEYWELL INTERNATIONAL, INC.

individually and as successor-in-interest to
ALLIED SIGNAL, INC., as successor to
BENDIX CORPORATION

**INDUSTRIAL HOLDINGS
CORPORATION**

f/k/a THE CARBORUNDUM COMPANY

JOHNSON CONTROLS, INC.

MERITOR, INC.

f/k/a ARVINMERITOR, INC., successor-in-
interest to the former automotive products
segment of ROCKWELL INTERNATIONAL
CORPORATION

**METROPOLITAN LIFE INSURANCE
COMPANY**

a wholly owned subsidiary of METLIFE INC.

MORSE TEC LLC

f/k/a BORGWARNER MORSE TEC LLC, and
successor-by-merger to BORG-WARNER
CORPORATION

MW CUSTOM PAPERS, LLC

individually and as successor-in-interest to
MEADWESTVACO

**OCCIDENTAL CHEMICAL
CORPORATION**

as successor to DUREZ CORPORATION)
)
O'REILLY AUTO ENTERPRISES, LLC)
 individually and as successor-in-interest, parent,)
 alter ego and equitable trustee of KRAGEN)
 AUTO PARTS, GRAND AUTO SUPPLY,)
 O'REILLY AUTO PARTS and CSK AUTO,)
 INC.)
)
O'REILLY AUTOMOTIVE STORES, INC.)
)
PARAMOUNT GLOBAL)
 f/k/a VIACOMCBS INC., f/k/a CBS)
 CORPORATION, a Delaware corporation f/k/a)
 VIACOM, INC., successor-by-merger to CBS)
 CORPORATION, a Pennsylvania corporation,)
 f/k/a WESTINGHOUSE ELECTRIC)
 CORPORATION)
)
PFIZER, INC.)
)
PHARMACIA LLC)
 f/k/a PHARMACIA CORPORATION f/k/a)
 MONSANTO COMPANY)
)
PIEDMONT INSULATION, INC.)
)
PNEUMO ABEX LLC)
 successor-in-interest to ABEX CORPORATION)
)
REDCO CORPORATION)
 f/k/a CRANE CO.)
)
RILEY POWER INC.)
 f/k/a BABCOCK BORSIG POWER INC.,)
 f/k/a DB RILEY, INC., f/k/a RILEY STOKER)
 CORPORATION)
)
ROCKWELL AUTOMATION INC.)
 individually and as successor-in-interest to)
 ALLEN-BRADLEY COMPANY LLC, f/k/a)
 ROCKWELL INTERNATIONAL)
 CORPORATION)
)
RUST ENGINEERING &)
CONSTRUCTION, INC.)
)

RUST INTERNATIONAL INC.	)
	)
SAINT-GOBAIN ABRASIVES, INC.	)
f/k/a NORTON COMPANY	)
	)
SCHNEIDER ELECTRIC USA, INC.	)
f/k/a SQUARE D COMPANY	)
	)
SOUTHERN INSULATION, INC.	)
	)
SPIRAX SARCO, INC.	)
	)
UNION CARBIDE CORPORATION	)
	)
VISTRA INTERMEDIATE COMPANY	)
LLC	)
individually and as successor-in-interest to	)
CRSS INC.	)
	)
WESTROCK MWV, LLC	)
individually and as successor-in-interest to	)
WESTVACO	)
	)
WIND UP, LTD.	)
individually and as successor-in-interest to	)
PIPE & BOILER INSULATION, INC.	)
f/k/a CAROLINA INDUSTRIAL	)
INSULATING CO.	)
	)
ZF ACTIVE SAFETY US INC.	)
f/k/a KELSEY-HAYES COMPANY	)
	)
Defendants.	)
	)

PLAINTIFFS' ORIGINAL COMPLAINT

Plaintiffs, MELVIN G. WELCH and DONNA B. WELCH (hereinafter "Plaintiffs"), sue the named Defendants for compensatory and punitive damages, by and through their attorneys, and come before this court and allege as follows:

GENERAL ALLEGATIONS

1. Plaintiff Melvin G. Welch has been diagnosed with mesothelioma caused by exposure to asbestos dust and fibers. This exposure occurred as a result of his father Willis G. Welch's work with and around asbestos-containing products, which caused asbestos containing dust to cover his father's clothing, vehicle, and body which he brought home to Plaintiff Melvin G. Welch, who was then exposed to said asbestos dust and fibers. Plaintiff's exposure also occurred as a result of his own work with and around asbestos-containing products.

2. This Court has personal jurisdiction over Defendants because Plaintiffs' claims arise from Defendants' conduct in:

- (a) Transacting business in this State, including the sale, supply, purchase, and/or use of asbestos and/or asbestos-containing products, within this State;
- (b) Contracting to supply services or things in the State;
- (c) Commission of a tortious act in whole or in part in this State;
- (d) Having an interest in, using, or possessing real property in this State; and/or
- (e) Entering into a contract to be performed in whole or in part by either party in this State.

3. Each Defendant, or its predecessors in interest, that manufactured, sold, and/or distributed asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action are referred to herein as "Product Defendants." At all times relevant to this action, the Product Defendants and the predecessors of the Product Defendants for whose actions the Product Defendants are legally responsible, were engaged in the manufacture, sale and distribution of asbestos-containing products and raw materials.

4. Each Defendant, or its predecessors in interest, that owned and/or controlled the work sites where Plaintiff Melvin G. Welch and his father, Willis G. Welch, experienced

occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment in their immediate vicinity are referred to herein as the “Premises Defendants.” At all times relevant to this action:

- (a) the Premises Defendants owned the property and approved the use of asbestos-containing materials on its premises.
- (b) the Premises Defendants invited Plaintiff Melvin G. Welch, as an instrumentation specialist helper and his father, Willis G. Welch, as a welder, on to Defendant’s premises to perform construction work for Defendant’s benefit. Plaintiff and his father were invitees who had express permission to enter Defendant’s premises for the purpose of benefitting the owner (Defendant).
- (c) the Premises Defendants owed a duty of due care to discover risks and take safety precautions to warn of and eliminate unreasonable risks.
- (d) the Premises Defendants’ failure to warn of or eliminate the unreasonable risks associated with working on or around asbestos-containing materials on Defendants’ premises was a substantial factor contributing to cause Plaintiff Melvin G. Welch’s mesothelioma.

5. Each Defendant, or its predecessors in interest, that provided labor, materials, goods, and/or services as architects, consultants, engineers, draftsmen, technicians, surveyors, or otherwise in connection with the design and/or repairs at the work sites where Plaintiff Melvin G. Welch and his father Willis G. Welch experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment, are referred to herein as the “Design Defendants.”

6. Plaintiffs’ claims against the Product Defendants, as defined herein, arise out of Defendants’ purposeful efforts to serve directly or indirectly the market for their asbestos and/or asbestos-containing products in this State, either through direct sales or through utilizing an established distribution channel with the expectation that their products would be purchased and/or used within South Carolina.

7. Plaintiffs' claims against the Premises Defendants, as defined herein, arise out of Defendants' ownership and/or control of real property located in South Carolina and the purchase and use of asbestos-containing products on their premises located in South Carolina, with which Plaintiff's father Willis G. Welch, worked, and as a result were exposed to asbestos.

8. Plaintiffs' claims against the Design Defendants, as defined herein, arise out of Defendants', and/or Defendants' employees', direct and/or indirect purchase and use of asbestos and/or asbestos-containing products, materials, or equipment at the various industrial sites located in South Carolina where Plaintiff Melvin G. Welch experienced occupational exposure to lethal doses of asbestos as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment.

9. All of the named Defendants are corporations who purposefully availed themselves of the privilege of doing business in this State, and whose substantial and/or systematic business in South Carolina exposed Plaintiff Melvin G. Welch to asbestos in this State, subjecting them to the jurisdiction of the South Carolina courts pursuant to the South Carolina Long-Arm Statute and the United States Constitution.

10. In addition to being exposed through his own work, Plaintiff Melvin G. Welch was exposed to asbestos through asbestos dust and fibers brought home on his father's work clothes, from asbestos dust in his father's vehicle and asbestos dust on his father's body including his hair, and from the dust being distributed and re-entrained in their home. His exposure to asbestos dust and fibers occurred through his father's work clothing and person when greeting him at the end of his father's workday, through spending time in his vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their family's home.

11. Plaintiff Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

12. Neither Plaintiffs, nor Plaintiff's father Willis G. Welch, were aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

13. Both Plaintiff Melvin G. Welch and his father Willis G. Welch worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured and/or sold by the Product Defendants and used on property owned and controlled by the Premises Defendants. Plaintiff's father Willis G. Welch brought asbestos home with him on his person and clothing, which caused Plaintiff Melvin G. Welch to be exposed to asbestos.

14. Each of the named Defendants is liable for damages stemming from its own tortious conduct or the tortious conduct of an "alternate entity" as hereinafter defined. Defendants are liable for the acts of their "alternate entity" and each of them, in that there has been a corporate name change, Defendant is the successor by merger, by successor in interest, or by other acquisition resulting in a virtual destruction of Plaintiffs' remedy against each such "alternate entity"; Defendants, each of them, have acquired the assets, product line, or a portion thereof, of each such "alternate entity"; such "alternate entities" have acquired the assets, product line, or a portion thereof of each such Defendant; Defendants, and each of them, caused the destruction of Plaintiffs' remedy against each such "alternate entity"; each such Defendant has the ability to assume the risk-spreading role of each such "alternate entity;" and that each such defendant enjoys the goodwill originally attached to each "alternate entity."

DEFENDANT	ALTERNATE ENTITY
3M COMPANY	MINNESOTA MINING AND MANUFACTURING COMPANY
ACCEL PERFORMANCE GROUP LLC	PRESTOLITE PERFORMANCE LLC and HAYES PERFORMANCE BRAKES
ATLAS TURNER, INC.	ATLAS ASBESTOS CO
BEATY INVESTMENTS, INC.	GUY M. BEATY & CO.
BELDEN INC.	BELDEN 2010 INC.
BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC	BRIDGESTONE FIRESTONE NORTH AMERICAN TIRE, LLC
DCO LLC	VICTOR GASKET MANUFACTURING COMPANY
FLUOR CONSTRUCTORS INTERNATIONAL	FLUOR CORPORATION
GENERAL PARTS, INC.	CARQUEST CORPORATION
GENUINE PARTS COMPANY	NAPA
GOODRICH CORPORATION	THE B. F. GOODRICH COMPANY
HENNESSY INDUSTRIES, LLC	HENNESSY INDUSTRIES, INC.
HONEYWELL INTERNATIONAL, INC.	ALLIED SIGNAL, INC. and BENDIX CORPORATION
INDUSTRIAL HOLDINGS CORPORATION	THE CARBORUNDUM COMPANY
MERITOR, INC.	ARVINMERITOR, INC. and ROCKWELL INTERNATIONAL CORPORATION
METROPOLITAN LIFE INSURANCE COMPANY	METLIFE INC.

DEFENDANT	ALTERNATE ENTITY
MORSE TEC LLC	BORGWARNER MORSE TEC LLC and BORG-WARNER CORPORATION
MW CUSTOM PAPERS, LLC	MEADWESTVACO
OCCIDENTAL CHEMICAL CORPORATION	DUREZ CORPORATION
O'REILLY AUTO ENTERPRISES, LLC	KRAGEN AUTO PARTS, GRAND AUTO SUPPLY, O'REILLY AUTO PARTS, and CSK AUTO, INC.
PARAMOUNT GLOBAL	VIACOMCBS INC., CBS CORPORATION, a Delaware corporation, VIACOM, INC., CBS CORPORATION, a Pennsylvania corporation, and WESTINGHOUSE ELECTRIC CORPORATION
PHARMACIA LLC	PHARMACIA CORPORATION and MONSANTO COMPANY
PNEUMO ABEX, LLC	ABEX CORPORATION
REDCO CORPORATION	CRANE CO.
RILEY POWER INC.	BABCOCK BORSIG POWER INC., DB RILEY, INC., and RILEY STOKER CORPORATION
ROCKWELL AUTOMATION INC.	ALLEN-BRADLEY COMPANY LLC and ROCKWELL INTERNATIONAL CORPORATION
SAINT-GOBAIN ABRASIVES, INC.	NORTON COMPANY
SCHNEIDER ELECTRIC USA, INC.	SQUARE D COMPANY
VISTRA INTERMEDIATE COMPANY LLC	CRSS INC.

DEFENDANT	ALTERNATE ENTITY
WESTROCK MWV, LLC	WESTVACO
WIND UP, LTD.	PIPE AND BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO.
ZF ACTIVE SAFETY US INC.	KELSEY-HAYES COMPANY

15. Plaintiffs have been informed and believe, and thereon allege, that at all times herein mentioned, Defendants or their “alternate entities” were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and existing under and by virtue of the laws of the State of South Carolina, or the laws of some other state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

16. Plaintiffs have been informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

17. As a direct and proximate result of the conduct as alleged within, Plaintiff Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

18. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Melvin G. Welch's medical treatment is ascertained.

19. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred, and will incur, loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs pray leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

20. Plaintiffs hereby disclaim each and every claim or cause of action which does or may arise from any United States armed forces service, or on any federal enclave. This disclaimer is not related solely to actions taken by or at the direction of a federal officer, but is, rather broader. Plaintiffs are not making any claims and are not alleging any causes of action against any entity for any asbestos exposure of any kind which occurred as a result of Plaintiff Melvin G. Welch's United States armed forces service. Moreover, Plaintiffs are further disclaiming each and every claim or cause of action arising from any exposure to asbestos as a result of the Plaintiff's presence on or at any federal enclave. Plaintiffs further disclaim each and every claim or cause of action arising under the United States Constitution and under any Federal Law or Regulation. Finally, Plaintiffs disclaim each and every claim or cause of action which may be asserted under federal admiralty or maritime law. Courts across the Country have found that such disclaimers are proper and within the province of the Plaintiffs to disclaim. Any removal by any defendant on the basis of the disclaimed claims will result in a motion for sanctions and seeking attorneys' fees.

THE PARTIES

21. Plaintiffs Melvin G. Welch and Donna B. Welch are currently residents of the State of South Carolina. Plaintiff Melvin G. Welch was exposed to asbestos as a result of his father Willis G. Welch's career at various job sites, including but not limited to, locations in South Carolina. Plaintiff was exposed to asbestos dust and fibers taken home on his father, from asbestos dust in his father's vehicle, asbestos dust on his father's body including his hair, and from the dust being distributed and re-entrained. Plaintiff Melvin G. Welch was also exposed to asbestos during the course of his own career at various job sites, including but not limited to, locations in multiple states, including but not limited to South Carolina.

22. Defendant, **3M COMPANY**, f/k/a MINNESOTA MINING AND MANUFACTURING COMPANY, was and is a Delaware corporation with its principal place of business in Minnesota. At all times material hereto, 3M COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, or products fraudulently marketed to prevent asbestos exposure including, but not limited to, 3M masks and tape and 3M asbestos-containing products, including but not limited to auto body sealer. 3M COMPANY is sued as a Product Defendant. Plaintiffs' claims against 3M COMPANY arise out of this Defendant's business activities in the State of South Carolina.

23. Defendant, **ACCEL PERFORMANCE GROUP LLC**, f/k/a PRESTOLITE PERFORMANCE LLC, successor to HAYES PERFORMANCE BRAKES, was and is a Delaware limited liability company with its principal place of business in Kentucky. At all times material hereto, ACCEL PERFORMANCE GROUP LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but

not limited to, asbestos-containing Hayes performance brakes. ACCEL PERFORMANCE GROUP LLC is sued as a Product Defendant. Plaintiffs' claims against ACCEL PERFORMANCE GROUP LLC arise out of this Defendant's business activities in the State of South Carolina.

24. Defendant, **ADVANCE AUTO PARTS, INC.**, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, ADVANCE AUTO PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, clutches, and gaskets. ADVANCE AUTO PARTS, INC. is sued as a Product Defendant. Plaintiffs' claims against ADVANCE AUTO PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

25. Defendant, **AMERICAN HONDA MOTOR CO., INC.**, was and is a California corporation with its principal place of business in California. At all times material hereto, AMERICAN HONDA MOTOR CO., INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. AMERICAN HONDA MOTOR CO., INC. is sued as a Product Defendant. Plaintiffs' claims against AMERICAN HONDA MOTOR CO., INC. arise out of this Defendant's business activities in the State of South Carolina.

26. Defendant, **ATLAS ASBESTOS CO**, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS ASBESTOS CO mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but

not limited to, raw asbestos fibers. ATLAS ASBESTOS CO is sued as a Product Defendant. Plaintiffs' claims against ATLAS ASBESTOS CO arise out of this Defendant's business activities in the State of South Carolina.

27. Defendant, **ATLAS TURNER, INC.**, as successor to ATLAS ASBESTOS CO, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS TURNER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers. ATLAS TURNER, INC. is sued as a Product Defendant. Plaintiffs' claims against ATLAS TURNER, INC. arise out of this Defendant's business activities in the State of South Carolina.

28. Defendant, **AUTOZONE, INC.**, was and is a Nevada corporation with its principal place of business in Tennessee. At all times material hereto, AUTOZONE, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. AUTOZONE, INC. is sued as a Product Defendant. Plaintiffs' claims against AUTOZONE, INC. arise out of this Defendant's business activities in the State of South Carolina.

29. Defendant, **BAHNSON, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BAHNSON, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the

southeastern United States. BAHNSON, INC. is sued as a Product Defendant. BAHNSON, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against BAHNSON, INC. arise out of this Defendant's business activities in the State of South Carolina.

30. Defendant, **BEATY INVESTMENTS, INC.**, f/k/a GUY M. BEATY & CO., was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BEATY INVESTMENTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. BEATY INVESTMENTS, INC. is sued as a Product Defendant. BEATY INVESTMENTS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against BEATY INVESTMENTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

31. Defendant, **BELDEN INC.**, d/b/a BELDEN 2010 INC., was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, BELDEN INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing wires, cables, panels, and electrical controls. BELDEN INC. is sued as a Product Defendant. Plaintiffs' claims

against BELDEN INC. arise out of this Defendant's business activities in the State of South Carolina.

32. Defendant, **BELDEN WIRE & CABLE COMPANY**, was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, BELDEN WIRE & CABLE COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing wires, cables, panels, and electrical controls. BELDEN WIRE & CABLE COMPANY is sued as a Product Defendant. Plaintiffs' claims against BELDEN WIRE & CABLE COMPANY arise out of this Defendant's business activities in the State of South Carolina.

33. Defendant, **BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC**, f/k/a BRIDGESTONE FIRESTONE NORTH AMERICAN TIRE, LLC, was and is a Delaware limited liability company with its principal place of business in Tennessee. At all times material hereto, BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing tires and friction products. BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC is sued as a Product Defendant. Plaintiffs' claims against BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC arise out of this Defendant's business activities in the State of South Carolina.

34. Defendant, **CAROLINA TOOL COMPANY**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, CAROLINA TOOL COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of

asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, clutches, and gaskets, and based upon information and belief Carolina Tool Company was and is an authorized NAPA dealer. CAROLINA TOOL COMPANY is sued as a Product Defendant. Plaintiffs' claims against CAROLINA TOOL COMPANY arise out of this Defendant's business activities in the State of South Carolina.

35. Defendant, **COPELAND CORPORATION LLC**, was and is a Delaware limited liability company with its principal place of business in Ohio. At all times material hereto, COPELAND CORPORATION LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Copeland compressors. COPELAND CORPORATION LLC is sued as a Product Defendant. Plaintiffs' claims against COPELAND CORPORATION LLC arise out of this Defendant's business activities in the State of South Carolina.

36. Defendant, **COVIL CORPORATION**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, COVIL CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. COVIL CORPORATION is sued as a Product Defendant. COVIL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Covil Corporation, exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses

of asbestos. Plaintiffs' claims against COVIL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

37. Defendant, **DANIEL INTERNATIONAL CORPORATION**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, DANIEL INTERNATIONAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DANIEL INTERNATIONAL CORPORATION is sued as a Product Defendant. DANIEL INTERNATIONAL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against DANIEL INTERNATIONAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

38. Defendant, **DAVIS MECHANICAL CONTRACTORS, INC.**, was a South Carolina corporation with its principal place of business in North Carolina. At all times material hereto, DAVIS MECHANICAL CONTRACTORS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DAVIS MECHANICAL CONTRACTORS, INC. is sued as a Product Defendant. DAVIS MECHANICAL CONTRACTORS, INC. is also sued for the work it did at the various industrial sites in the

southeastern United States which, during the actual operations of Davis Mechanical Contractors, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against DAVIS MECHANICAL CONTRACTORS, INC. arise out of this Defendant's business activities in the State of South Carolina.

39. Defendant, **DCO LLC**, individually and as successor-in-interest to VICTOR GASKET MANUFACTURING COMPANY, was and is a Virginia limited liability company with its principal place of business in Tennessee. At all times material hereto, DCO LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Victor gaskets. DCO LLC is sued as a Product Defendant. Plaintiffs' claims against DCO LLC arise out of this Defendant's business activities in the State of South Carolina.

40. Defendant, **EATON CORPORATION**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, EATON CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Spicer brakes, Eaton brakes, and Cutler Hammer electrical products. EATON CORPORATION is sued as a Product Defendant. Plaintiffs' claims against EATON CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

41. Defendant, **ELLINGTON INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, ELLINGTON INSULATION COMPANY, INC. manufactured, processed, imported,

converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. ELLINGTON INSULATION COMPANY, INC. is sued as a Product Defendant. ELLINGTON INSULATION COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Ellington Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against ELLINGTON INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

42. Defendant, **FISHER CONTROLS INTERNATIONAL LLC**, was and is a Delaware limited liability company with its principal place of business in Missouri. At all times material hereto, FISHER CONTROLS INTERNATIONAL LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Fisher valves and controls. FISHER CONTROLS INTERNATIONAL LLC is sued as a Product Defendant. Plaintiffs' claims against FISHER CONTROLS INTERNATIONAL LLC arise out of this Defendant's business activities in the State of South Carolina.

43. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL**, f/k/a/ FLUOR CORPORATION, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing

products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL arise out of this Defendant's business activities in the State of South Carolina.

44. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

45. Defendant, **FLUOR DANIEL SERVICES CORPORATION**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, FLUOR DANIEL SERVICES CORPORATION mined, manufactured, processed, imported,

converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR DANIEL SERVICES CORPORATION is sued as a Product Defendant. FLUOR DANIEL SERVICES CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR DANIEL SERVICES CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

46. Defendant, **FLUOR ENTERPRISES, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR ENTERPRISES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR ENTERPRISES, INC. is sued as a Product Defendant. FLUOR ENTERPRISES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR ENTERPRISES, INC. arise out of this Defendant's business activities in the State of South Carolina.

47. Defendant, **FORD MOTOR COMPANY**, was and is a Delaware corporation with its principal place of business in Michigan. At all times material hereto, FORD MOTOR

COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. FORD MOTOR COMPANY is sued as a Product Defendant. Plaintiffs' claims against FORD MOTOR COMPANY arise out of this Defendant's business activities in the State of South Carolina.

48. Defendant, **GENERAL ELECTRIC COMPANY**, was and is a New York corporation with its principal place of business in Massachusetts. At all times material hereto, GENERAL ELECTRIC COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing electric panels and wires. GENERAL ELECTRIC COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENERAL ELECTRIC COMPANY arise out of this Defendant's business activities in the State of South Carolina.

49. Defendant, **GENERAL PARTS, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, GENERAL PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. GENERAL PARTS, INC. is sued as a Product Defendant. Plaintiffs' claims against GENERAL PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

50. Defendant, **GENUINE PARTS COMPANY**, d/b/a NAPA, was and is a Georgia corporation with its principal place of business in Georgia. At all times material hereto, GENUINE

PARTS COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products, and based upon information and belief GENUINE PARTS COMPANY extended authorized dealership privileges to Carolina Tool Company. GENUINE PARTS COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENUINE PARTS COMPANY arise out of this Defendant's business activities in the State of South Carolina.

51. Defendant, **GOODRICH CORPORATION**, f/k/a THE B. F. GOODRICH COMPANY, was and is a New York corporation with its principal place of business in North Carolina. At all times material hereto, GOODRICH CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Goodrich brakes. GOODRICH CORPORATION is sued as a Product Defendant. Plaintiffs' claims against GOODRICH CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

52. Defendant, **THE GOODYEAR TIRE & RUBBER COMPANY**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, THE GOODYEAR TIRE & RUBBER COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. THE GOODYEAR TIRE & RUBBER COMPANY is sued as a Product Defendant. Plaintiffs' claims against THE GOODYEAR TIRE & RUBBER COMPANY arise out of this Defendant's business activities in the State of South Carolina.

53. Defendant, **GRAYBAR ELECTRIC COMPANY, INC.**, was and is a New York corporation with its principal place of business in Missouri. At all times material hereto, GRAYBAR ELECTRIC COMPANY, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. GRAYBAR ELECTRIC COMPANY, INC. is sued as a Product Defendant. Plaintiffs' claims against GRAYBAR ELECTRIC COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

54. Defendant, **HEAT & FROST INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, HEAT & FROST INSULATION COMPANY, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. HEAT & FROST INSULATION COMPANY, INC. is sued as a Product Defendant. HEAT & FROST INSULATION COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Heat & Frost Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against HEAT & FROST INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

55. Defendant, **HENNESSY INDUSTRIES, LLC**, f/k/a HENNESSY INDUSTRIES, INC., was and is a Delaware limited liability with its principal place of business in Tennessee. At

all times material hereto, HENNESSY INDUSTRIES, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, and/or equipment designed to be used with asbestos-containing products, including, but not limited to, Ammco Arc grinders and brake drum lathe and asbestos-containing grinders. HENNESSY INDUSTRIES, LLC is sued as a Product Defendant. Plaintiffs' claims against HENNESSY INDUSTRIES, LLC arise out of this Defendant's business activities in the State of South Carolina.

56. Defendant, **HONEYWELL INTERNATIONAL, INC.**, individually and as successor-in-interest to ALLIED SIGNAL, INC., as successor to BENDIX CORPORATION, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, HONEYWELL INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products, valves, and controls. HONEYWELL INTERNATIONAL, INC. is sued as a Product Defendant. Plaintiffs' claims against HONEYWELL INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

57. Defendant, **INDUSTRIAL HOLDINGS CORPORATION**, f/k/a THE CARBORUNDUM COMPANY, was and is a New York corporation with its principal place of business in New York. At all times material hereto, INDUSTRIAL HOLDINGS CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing grinding wheels and Black Magic Diamond. INDUSTRIAL HOLDINGS CORPORATION is sued as a

Product Defendant. Plaintiffs' claims against INDUSTRIAL HOLDINGS CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

58. Defendant, **JOHNSON CONTROLS, INC.**, was and is a Wisconsin corporation with its principal place of business in Wisconsin. At all times material hereto, JOHNSON CONTROLS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Johnson valves. JOHNSON CONTROLS, INC. is sued as a Product Defendant. Plaintiffs' claims against JOHNSON CONTROLS, INC. arise out of this Defendant's business activities in the State of South Carolina.

59. Defendant, **MERITOR, INC.**, f/k/a ARVINMERITOR, INC., successor-in-interest to the former automotive products segment of ROCKWELL INTERNATIONAL CORPORATION, was and is a Nevada corporation with its principal place of business in Michigan. At all times material hereto, MERITOR, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Rockwell brakes. MERITOR, INC. is sued as a Product Defendant. Plaintiffs' claims against MERITOR, INC. arise out of this Defendant's business activities in the State of South Carolina.

60. Defendant, **METROPOLITAN LIFE INSURANCE COMPANY**, a wholly-owned subsidiary of METLIFE INC., was and is a New York corporation with its principal place of business in New York. METROPOLITAN LIFE INSURANCE COMPANY has done and does business in the State of South Carolina. METROPOLITAN LIFE INSURANCE COMPANY is named as a conspiracy defendant.

61. Defendant, **MORSE TEC LLC**, f/k/a BORGWARNER MORSE TEC LLC, and successor-by-merger to BORG-WARNER CORPORATION, was and is a Delaware limited liability with its principal place of business in Michigan. At all times material hereto, MORSE TEC LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, including but not limited to Borg-Beck brakes, and clutches, including but not limited to Borg-Warner clutches and Rockford clutches. MORSE TEC LLC is sued as a Product Defendant. Plaintiffs' claims against MORSE TEC LLC arise out of this Defendant's business activities in the State of South Carolina.

62. Defendant, **MW CUSTOM PAPERS, LLC**, was and is a Delaware limited liability with its principal place of business in Georgia. At all times material hereto, MW CUSTOM PAPERS, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction paper. MW CUSTOM PAPERS, LLC is sued as a Product Defendant. Plaintiffs' claims against MW CUSTOM PAPERS, LLC arise out of this Defendant's business activities in the State of South Carolina.

63. Defendant, **OCCIDENTAL CHEMICAL CORPORATION**, as successor to DUREZ CORPORATION, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, OCCIDENTAL CHEMICAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing raw asbestos

fibers. OCCIDENTAL CHEMICAL CORPORATION is sued as a Product Defendant. Plaintiffs' claims against OCCIDENTAL CHEMICAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

64. Defendant, **O'REILLY AUTO ENTERPRISES, LLC**, individually and as successor-in-interest, parent, alter ego and equitable trustee of KRAGEN AUTO PARTS, GRAND AUTO SUPPLY, O'REILLY AUTO PARTS and CSK AUTO, INC., was and is a Delaware limited liability with its principal place of business in Missouri. At all times material hereto, O'REILLY AUTO ENTERPRISES, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. O'REILLY AUTO ENTERPRISES, LLC is sued as a Product Defendant. Plaintiffs' claims against O'REILLY AUTO ENTERPRISES, LLC arise out of this Defendant's business activities in the State of South Carolina.

65. Defendant, **O'REILLY AUTOMOTIVE STORES, INC.**, was and is a Missouri corporation with its principal place of business in Missouri. At all times material hereto, O'REILLY AUTOMOTIVE STORES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. O'REILLY AUTOMOTIVE STORES, INC. is sued as a Product Defendant. Plaintiffs' claims against O'REILLY AUTOMOTIVE STORES, INC. arise out of this Defendant's business activities in the State of South Carolina.

66. Defendant, **PARAMOUNT GLOBAL**, f/k/a VIACOMCBS INC., f/k/a CBS CORPORATION, a Delaware corporation f/k/a VIACOM, INC., successor-by-merger to CBS CORPORATION, a Pennsylvania corporation, f/k/a WESTINGHOUSE ELECTRIC

CORPORATION, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PARAMOUNT GLOBAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Westinghouse control panels and electrical equipment. PARAMOUNT GLOBAL is sued as a Product Defendant. Plaintiffs' claims against PARAMOUNT GLOBAL arise out of this Defendant's business activities in the State of South Carolina.

67. Defendant, **PFIZER, INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PFIZER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing talc. PFIZER, INC. is sued as a Product Defendant. Plaintiffs' claims against PFIZER, INC. arise out of this Defendant's business activities in the State of South Carolina.

68. Defendant, **PHARMACIA LLC**, f/k/a PHARMACIA CORPORATION f/k/a MONSANTO COMPANY, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, PHARMACIA LLC owned and/or controlled premises at which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to asbestos-containing products, equipment, and asbestos dust from said products at various facilities, including but not limited to, the Monsanto chemical plant in Greenwood, South Carolina. PHARMACIA LLC is sued as a Premises Defendant. Plaintiffs' claims against PHARMACIA LLC arise out of this Defendant's business activities in the State of South Carolina.

69. Defendant, **PIEDMONT INSULATION, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, **PIEDMONT INSULATION, INC.** mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. **PIEDMONT INSULATION, INC.** is sued as a Product Defendant. **PIEDMONT INSULATION, INC.** is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Heat & Frost Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against **PIEDMONT INSULATION, INC.** arise out of this Defendant's business activities in the State of South Carolina.

70. Defendant, **PNEUMO ABEX, LLC**, individually and as successor-in-interest to **ABEX CORPORATION**, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, **PNEUMO ABEX, LLC** mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. **PNEUMO ABEX, LLC** is sued as a Product Defendant. Plaintiffs' claims against **PNEUMO ABEX, LLC** arise out of this Defendant's business activities in the State of South Carolina.

71. Defendant, **REDCO CORPORATION**, f/k/a **CRANE CO.**, was and is a Delaware corporation with its principal place of business in Connecticut. At all times material hereto,

REDCO CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Cranite gaskets, Crane valves, and Crane pumps. REDCO CORPORATION is sued as a Product Defendant. Plaintiffs' claims against REDCO CORPORATION. Arise out of this Defendant's business activities in the State of South Carolina.

72. Defendant, **RILEY POWER INC.**, f/k/a BABCOCK BORSIG POWER INC., f/k/a DB RILEY, INC., f/k/a RILEY STOKER CORPORATION, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, RILEY POWER INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Riley boilers. RILEY POWER INC. is sued as a Product Defendant. Plaintiffs' claims against RILEY POWER INC. arise out of this Defendant's business activities in the State of South Carolina.

73. Defendant, **ROCKWELL AUTOMATION INC.**, individually and as successor-in-interest ALLEN-BRADLEY COMPANY LLC, f/k/a ROCKWELL INTERNATIONAL CORPORATION, was and is a Delaware corporation with its principal place of business in Wisconsin. At all times material hereto, ROCKWELL AUTOMATION INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Allen-Bradley electrical panels. ROCKWELL AUTOMATION INC. is sued as a Product Defendant. Plaintiffs'

claims against ROCKWELL AUTOMATION INC. arise out of this Defendant's business activities in the State of South Carolina.

74. Defendant, **RUST ENGINEERING & CONSTRUCTION, INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST ENGINEERING & CONSTRUCTION, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST ENGINEERING & CONSTRUCTION, INC. is sued as a Product Defendant and a Design Defendant. RUST ENGINEERING & CONSTRUCTION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against RUST ENGINEERING & CONSTRUCTION, INC. arise out of this Defendant's business activities in the State of South Carolina.

75. Defendant, **RUST INTERNATIONAL INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST INTERNATIONAL INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST INTERNATIONAL INC. is sued as a Product Defendant and a

Design Defendant. RUST INTERNATIONAL INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against RUST INTERNATIONAL INC. arise out of this Defendant's business activities in the State of South Carolina.

76. Defendant, **SAINT-GOBAIN ABRASIVES, INC.**, f/k/a NORTON COMPANY, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, SAINT-GOBAIN ABRASIVES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Norton grinding wheels. SAINT-GOBAIN ABRASIVES, INC. is sued as a Product Defendant. Plaintiffs' claims against SAINT-GOBAIN ABRASIVES, INC. arise out of this Defendant's business activities in the State of South Carolina.

77. Defendant, **SCHNEIDER ELECTRIC USA, INC.**, f/k/a SQUARE D COMPANY, was and is a Delaware corporation with its principal place of business in Massachusetts. At all times material hereto, SCHNEIDER ELECTRIC USA, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Square D electrical panels and components. SCHNEIDER ELECTRIC USA, INC. is sued as a Product Defendant. Plaintiffs' claims against SCHNEIDER ELECTRIC USA, INC. arise out of this Defendant's business activities in the State of South Carolina.

78. Defendant, **SOUTHERN INSULATION, INC.**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, SOUTHERN

INSULATION, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation at numerous jobsites throughout the southeastern United States. SOUTHERN INSULATION, INC. is sued as a Product Defendant. SOUTHERN INSULATION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Southern Insulation, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against SOUTHERN INSULATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

79. Defendant, **SPIRAX SARCO, INC.**, was and is a Delaware corporation with its principal place of business in South Carolina. At all times material hereto, SPIRAX SARCO, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Sarco steam traps. SPIRAX SARCO, INC. is sued as a Product Defendant. Plaintiffs' claims against SPIRAX SARCO, INC. arise out of this Defendant's business activities in the State of South Carolina.

80. Defendant, **UNION CARBIDE CORPORATION**, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, UNION CARBIDE CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers and asbestos-containing phenolic molding products. UNION CARBIDE CORPORATION

is sued as a Product Defendant. Plaintiffs' claims against UNION CARBIDE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

81. Defendant, **VISTRA INTERMEDIATE COMPANY LLC**, individually and as successor-in-interest to CRSS INC., was and is a Delaware limited liability corporation with its principal place of business in Texas. At all times material hereto, VISTRA INTERMEDIATE COMPANY LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. VISTRA INTERMEDIATE COMPANY LLC is sued as a Product Defendant and a Design Defendant. VISTRA INTERMEDIATE COMPANY LLC is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against VISTRA INTERMEDIATE COMPANY LLC arise out of this Defendant's business activities in the State of South Carolina.

82. Defendant, **WESTROCK MWV, LLC**, as successor-in-interest to WESTVACO, was and is a Delaware limited liability company with its principal place of business in Georgia. At all times material hereto, WESTROCK MWV, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction paper. WESTROCK MWV, LLC is sued as a Product Defendant. Plaintiffs' claims against WESTROCK MWV, LLC arise out of this Defendant's business activities in the State of South Carolina.

83. Defendant, **WIND UP, LTD.**, individually and as successor-in-interest to PIPE & BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO., was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, WIND UP, LTD. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. WIND UP, LTD. is sued as a Product Defendant. WIND UP, LTD. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Wind Up, Ltd., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against WIND UP, LTD. arise out of this Defendant's business activities in the State of South Carolina.

84. Defendant, **ZF ACTIVE SAFETY US INC.**, f/k/a KELSEY-HAYES COMPANY, was and is a Delaware corporation with its principal place of business in Michigan. At all times material hereto, ZF ACTIVE SAFETY US INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Kelsey-Hayes brakes and clutches. ZF ACTIVE SAFETY US INC. is sued as a Product Defendant. Plaintiffs' claims against ZF ACTIVE SAFETY US INC. arise out of this Defendant's business activities in the State of South Carolina.

85. Plaintiff Melvin G. Welch was exposed through his father, Willis G. Welch, and also experienced further occupational exposure himself, as a result of each of them working with and around asbestos-containing equipment in their immediate vicinities at their work sites,

including but not limited to, the premises of Defendant PHARMACIA LLC (collectively, hereinafter the “Premises Defendants”). All other Defendants, or their applicable predecessors in interest, (except for METROPOLITAN LIFE INSURANCE COMPANY) were engaged in the manufacture, sale, distribution and/or installation of asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action. At all times relevant to this action, the Defendants and the predecessors of the Defendants, for whose actions the Defendants are legally responsible, were engaged in the manufacture, sale, distribution, and/or installation of asbestos-containing products and raw materials for use in South Carolina and other states at times relevant to this action.

BACKGROUND FACTS

86. Plaintiff Melvin G. Welch brings this action for monetary damages as a result of contracting an asbestos-related disease.

87. Plaintiff Melvin G. Welch was diagnosed with mesothelioma on or about June 27, 2022.

88. Plaintiff Melvin G. Welch’s mesothelioma was caused by his exposure to asbestos during the course of his own work in various roles, including but not limited to instrumentation specialist helper and mechanic, as well as through the asbestos carried home on the clothing and person of his father during the years he lived in the family home.

89. During his work history, Plaintiff Melvin G. Welch was exposed to Defendants’ asbestos-containing products through his work as an instrumentation specialist helper for Daniel Construction at the Monsanto chemical plant in Greenwood, South Carolina in the mid-late 1960s. Plaintiff performed a variety of tasks throughout the facilities where he worked, which included, but were not limited to, installing instrumentation on various forms of equipment. On these jobsites, he worked with and around asbestos-containing products, including but not limited to

pipe and block insulation, cements, spray insulation, gaskets, packing materials, refractory motor and firebrick for use on turbines, boilers, pipes, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Plaintiff to asbestos and asbestos-dust.

90. During his work history, Plaintiff was further exposed through his work around other trades including but not limited to laborers, sheet metal workers, welders, pipefitters, boilermakers, insulators, electricians, and maintenance mechanics. Plaintiff worked near and closely to a variety of tradesmen working on asbestos-containing pipe and block insulation, cements, spray insulation, gaskets, packing material, refractory motor and firebrick for use on turbines, boilers, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Plaintiff to asbestos and asbestos dust.

91. During his work history, Plaintiff was further exposed to Defendants' asbestos-containing products through his work as an automobile mechanic at various jobsites located in South Carolina from approximately the late 1970s to the mid-late 2000s. Plaintiff worked as a mechanic performing a variety of tasks including but not limited to preventative maintenance and repair work of engines, transmissions, shocks, exhaust, clutches, gaskets, and brakes. He was also required to clean the repair bays, which involved sweeping asbestos dust without any protection. All of these activities exposed Plaintiff to asbestos.

92. Through his work as a mechanic, Plaintiff worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured, sold, supplied and/or distributed by Defendants identified above.

93. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at K-Mart in Greenwood, South Carolina from approximately the late 1970s to the late 1980s.

94. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at M&M Tire in Greenwood, South Carolina from approximately the late 1980s to the mid 1990s.

95. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at Western Auto in Greenwood, South Carolina from approximately the mid 1990s to the mid-late 2000s.

96. Plaintiff also was exposed to Defendants' asbestos-containing friction products during various times throughout his life while performing maintenance and changing the brakes, clutches, and gaskets on his personal vehicles and the vehicles of his friends and family throughout South Carolina from approximately the early 1970s to the present. These activities exposed Plaintiff to asbestos.

97. During the course of Plaintiff Melvin G. Welch's employment at the location(s) mentioned above, during other occupational work projects and in other ways, Plaintiff was exposed to and inhaled, ingested, or otherwise absorbed asbestos dust and fibers emanating from certain products he was working around.

98. Plaintiff Melvin G. Welch was further exposed as a result of his father Willis G. Welch's employment for Daniel Construction as a welder at the Monsanto chemical plant in Greenwood, South Carolina from approximately the mid to the late 1960s. Plaintiff's father performed a variety of tasks throughout the facilities, and was further exposed through his work around various other trades, including, but not necessarily limited to, premises workers and other

maintenance workers, insulators, pipefitters, welders, boilermakers, electricians, and others who installed and removed asbestos materials.

99. While employed at the Monsanto chemical plant in Greenwood, South Carolina, Plaintiff's father Willis G. Welch wore his own clothes to work, was exposed to asbestos dust and fibers that he brought home on his work clothes, fell off in his vehicle and were on his body including his hair, that distributed and re-entrained in his vehicle and home which caused Plaintiff Melvin G. Welch to be exposed to said asbestos dust in sufficient amounts as to cause him to develop mesothelioma.

100. From approximately the early 1960s to the early 1970s, Plaintiff Melvin G. Welch was exposed to asbestos dust and fibers from products, services, and goods manufactured, distributed and/or sold by Defendants for use at Plaintiff's father Willis G. Welch's jobsites which Plaintiff came in contact with off premises by contact with his father's work clothes, personal possessions and vehicle. Plaintiff's exposure to asbestos dust and fibers occurred through his contact with his father's work clothing and person when greeting him at the end of his workday, through spending time in his father's vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their home.

101. Plaintiff Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

102. Plaintiffs and Plaintiff Melvin G. Welch's father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

103. Plaintiffs are informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

104. As a direct and proximate result of the conduct as alleged within, Plaintiff Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

105. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred, and will incur, liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Melvin G. Welch's medical treatment is ascertained.

106. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiffs incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs request leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiffs Complain of Defendants for a Cause of Action for Negligence Alleging as Follows:

107. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

108. At all times herein mentioned, each of the named Defendants were an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products.

109. At all times herein mentioned, Defendants and/or their “alternate entities” singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, assembled, distributed, leased, bought, offered for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products, in that said products caused personal injuries to Plaintiff Melvin G. Welch and

others similarly situated, (hereinafter collectively called “exposed persons”), while being used for their intended purpose and in a manner that was reasonably foreseeable.

110. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos and asbestos-containing products from causing Plaintiff Melvin G. Welch’s mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff’s lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their “alternate entities.” Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or their “alternate entities.” The gravity of the potential harm resulting from the use of Defendants’ asbestos or asbestos-containing products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Plaintiff Melvin G. Welch and his father Willis G. Welch. Defendants and/or their “alternate entities” had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants, each of them, breached said duty of due care.

111. Defendants and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and asbestos-containing products would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other

applications, including, but not limited to grinding sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Plaintiff Melvin G. Welch and his father Willis G. Welch, would use or be in proximity to and exposed to said asbestos fibers.

112. At all times relevant, Defendants and/or their “alternate entities” were aware of their asbestos and asbestos-containing products’ defect but failed to adequately warn Plaintiff Melvin G. Welch, Plaintiff’s family members or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed to recall or retrofit their products. A reasonable manufacturer, distributor, or seller of Defendants’ products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

113. Plaintiff Melvin G. Welch, Plaintiff’s family members and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein in a manner that was reasonably foreseeable. Plaintiff’s and his father Willis G. Welch’s exposure to asbestos and asbestos-containing products occurred at various locations as set forth in this Complaint.

114. Plaintiff Melvin G. Welch suffers from mesothelioma, a cancer related to exposure to asbestos and asbestos-containing products. Plaintiff Melvin G. Welch and his father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury or disease.

115. Defendants’ conduct and defective products as described in this cause of action were a direct cause of Plaintiff Melvin G. Welch’s injuries, and all damages thereby sustained by

Plaintiff Melvin G. Welch. Plaintiffs therefore seek all compensatory damages in order to make them whole, according to proof.

116. Furthermore, the conduct of Defendants and/or their “alternate entities” in continuing to market and sell products which they knew were dangerous to Plaintiff Melvin G. Welch and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Plaintiff Melvin G. Welch and others similarly situated.

117. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, Defendants and/or their “alternate entities” did so with conscious disregard for the safety of “exposed persons” who came in contact with asbestos and asbestos-containing products, in that Defendants and/or their “alternate entities” had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, asbestosis, mesothelioma, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

118. Defendants and their “alternate entities” were aware that members of the general public and other “exposed persons,” who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products, could

cause injury, and Defendants and their “alternate entities,” each of them, knew that members of the general public and other “exposed persons,” who came in contact with asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact said exposure was extremely hazardous to health and human life.

119. The above-referenced conduct of Defendants and their “alternate entities,” was motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing, uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Defendants, their “alternate entities,” and each of them consciously disregarded the safety of “exposed persons” in pursuit of profit. Defendants were consciously willing and intended to permit asbestos and asbestos-containing products to cause injury to “exposed persons” without warning them of the potential hazards and further induced persons to work with and be exposed thereto, including Plaintiff Melvin G. Welch.

120. Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos containing-products, and products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Defendants and/or their “alternate entities” further failed to adequately warn of the risks to which Plaintiff and others similarly situated were exposed.

121. Defendants and/or their “alternate entities” are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their “alternate entities” as set forth herein.

122. The herein-described conduct of Defendants and their “alternate entities,” was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiffs, for the sake of example and by way of punishing said Defendants, seek punitive damages according to proof against all defendants.

FOR A SECOND CAUSE OF ACTION

(Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

123. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

124. Plaintiff Melvin G. Welch has suffered from mesothelioma, a cancer related to exposure to asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Plaintiff Melvin G. Welch was not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

125. The Products Defendants’ conduct and defective products as described above were a direct cause of Plaintiff Melvin G. Welch’s injuries, and the injuries and damages thereby sustained by Plaintiffs.

126. Furthermore, the Defendants’ conduct and that of their “alternate entities” in continuing to market and sell products which they knew were dangerous to Plaintiff Melvin G. Welch and the public without adequate warnings or proper use instructions, was done in a

conscious disregard and indifference to the safety and health of Plaintiff Melvin G. Welch and others similarly situated.

127. Defendants and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling, “exposed persons,” including Plaintiff, would use or be in proximity to and exposed to said asbestos fibers.

128. Plaintiff Melvin G. Welch, Plaintiff’s family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, referred to herein in a manner that was reasonably foreseeable. Plaintiff Melvin G. Welch’s exposure to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products occurred at various locations as set forth in this Complaint.

129. Defendants and/or their “alternate entities” knew and intended that the above-referenced asbestos and asbestos-containing products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

130. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing

product. Said alternatives would have prevented Defendants' asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiff Melvin G. Welch's mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff's lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products of Defendants and/or their "alternate entities." The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing products, and the likelihood such harm would occur, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

131. The defect existed in the said products at the time they left the possession of defendants and/or their "alternate entities," and each of them. Said products were intended to reach the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including mesothelioma, asbestosis, other lung damage, and cancer to "exposed persons," including Plaintiff Melvin G. Welch herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

132. Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants' asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Said Defendants and/or their "alternate

entities" further failed to adequately warn of the risks to which Plaintiff Melvin G. Welch and others similarly situated were exposed.

133. Defendants' defective products as described above were a direct cause of Plaintiff Melvin G. Welch's injuries, and the damages thereby sustained.

134. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, Defendants and/or their "alternate entities," and each of them, did so with conscious disregard for the safety of Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons who came in contact with the asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, in that Defendants and/or their "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, mesothelioma, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their "alternate entities."

135. Defendants and/or their "alternate entities" were aware that members of the general public and other exposed persons, who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products could cause injury. Defendants and/or their "alternate entities" further knew that members of the general

public and other exposed persons, who came in contact with asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact exposure was extremely hazardous to health and human life.

136. The above-referenced conduct of Defendants and/or their “alternate entities” motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products. Defendants and/or their “alternate entities” consciously disregarded the safety of “exposed persons” in their pursuit of profit and in fact consciously intended to cause injury to Plaintiff Melvin G. Welch and other exposed persons and induced persons to work with, be exposed to, and thereby injured by asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products.

137. Defendants are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of their “alternate entities” as set forth herein.

138. The conduct of said defendants, their “alternate entities,” and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons. Plaintiffs, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against all defendants.

139. At all times herein mentioned, each of the named Defendants, and/or their “alternate entities,” was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos and products manufactured for foreseeable use with asbestos products.

FOR A THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondeat Superior)

As a Third Distinct Cause of Action Against Defendants, Plaintiffs Bring this Third Cause of Action for Vicarious Liability of Product and Premises Defendants Based upon Respondeat Superior and Allege as Follows:

140. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

141. Prior to and during all relevant times Defendants and/or their “alternate entities” employed workers (hereinafter “employees”) in areas where defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff Melvin G. Welch and/or his father Willis G. Welch worked and/or spent time as alleged above.

142. At all times herein mentioned, Defendants’ employees frequently encountered asbestos-containing products, materials, and debris during the course and scope of their employment, and during their regular work activities negligently disturbed asbestos-containing materials to which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed.

143. Employees handling and disturbing asbestos-containing products in Plaintiff Melvin G. Welch's and his father Willis G. Welch's vicinity were the agents and employees of defendants and at all times relevant were subject to the control of Defendants with respect to their acts, labor, and work involving (a) the removal, transport, installation, cleaning, handling, and maintenance of asbestos-containing products, materials, and debris, and (b) the implementation of safety policies and procedures. Defendants controlled both the means and manner of performance of the work of their employees as described herein.

144. Employees handling and disturbing asbestos-containing products in Plaintiff Melvin G. Welch's, Plaintiff's family members and others' vicinity received monetary compensation from Defendants in exchange for the work performed and these employees performed the work in the transaction and furtherance of Defendants' businesses.

145. Harmful asbestos fibers were released during Defendants' employees' use, handling, breaking, or other manipulation of asbestos-containing products and materials.

146. Once released, the asbestos fibers contaminated the clothes, shoes, skin, hair, and body parts of those exposed, including Plaintiff Melvin G. Welch and his father Willis G. Welch, who also inhaled those fibers, and on the surfaces of work areas, where further activity caused the fibers to once again be released into the air and inhaled by Plaintiff Melvin G. Welch.

147. The asbestos and asbestos-containing materials were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air onto surrounding surfaces, and onto persons in the area. The inhalation of asbestos fibers can cause serious disease and death.

148. Defendants' employees' use, handling and manipulation of asbestos-containing materials, as required by their employment and occurring during the course and scope of their

employment, did in fact, cause personal injuries, including mesothelioma and other lung damage, to exposed persons including Plaintiff Melvin G. Welch.

149. Defendants' employees were negligent in their use, handling and manipulation of said products in that they failed to isolate their work with asbestos and/or to suppress asbestos fibers from being released into the air and surrounding areas. They also failed to take appropriate steps to learn how to prevent exposure to asbestos, failed to warn and/or adequately warn Plaintiff and his father Willis G. Welch that he was being exposed to asbestos, failed to adequately warn Plaintiff Melvin G. Welch and his father Willis G. Welch of the harm associated with his exposure to asbestos, and provide him with protection to prevent his inhalation of asbestos.

150. Defendants' employees knew or should have known that failure to take such steps would result in exposure to bystanders including Plaintiff Melvin G. Welch and his father Willis G. Welch.

151. Defendants' employees owed Plaintiff Melvin G. Welch and his father Willis G. Welch a duty to exercise due care and diligence in their activities while he was lawfully on the premises so as not to cause him harm.

152. Defendants' employees breached this duty of care as described above.

153. At all times mentioned, Plaintiff Melvin G. Welch and his father Willis G. Welch were unaware of the dangerous condition and unreasonable risk of personal injury created by Defendants' employees' use of and work with asbestos-containing products and materials.

154. As a direct result of the Defendants' employees conduct, Plaintiff Melvin G. Welch's and his father Willis G. Welch's exposure to asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products, each individually and together, caused severe and permanent injury to Plaintiff Melvin G. Welch and the damages and injuries as complained of herein by Plaintiffs.

155. The risks herein alleged and the resultant damages suffered by the Plaintiff Melvin G. Welch were typical of or broadly incidental to Defendants' business enterprises. As a practical matter, the losses caused by the torts of Defendants' employees as alleged were sure to occur in the conduct of Defendants' business enterprises. Nonetheless, Defendants engaged in, and sought to profit by, their business enterprises without exercising due care as described in this Complaint, which, on the basis of past experience, involved harm to others as shown through the torts of employees.

156. Based on the foregoing, Defendants as the employers of said employees are vicariously liable under the doctrine of respondeat superior for all negligent acts and omissions committed by their employees in the course and scope of their work that caused harm to Plaintiff Melvin G. Welch.

FOR A FOURTH CAUSE OF ACTION
(Premises Liability: Negligence as to Premises Owner/Contractor)

As a Fourth Distinct Cause of Action for General Negligence, Plaintiffs Complain of Defendants, and Allege as Follows:

157. Plaintiffs incorporate by reference, the preceding paragraphs as if fully set forth herein.

158. Prior to and during all relevant times, the Defendants and/or their "alternate entities" employed workers in areas where Defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff Melvin G. Welch and his father Willis G. Welch worked and/or spent time.

159. At all times herein mentioned, Defendants selected, supplied, and distributed asbestos-containing materials to their employees for use during their regular work activities, and said employees disturbed those asbestos-containing materials.

160. Defendants were negligent in selecting, supplying, distributing and disturbing the asbestos-containing products and in that said products were unsafe. Said products were unsafe because they released asbestos fibers and dust into air when used which would be inhaled by Plaintiff Melvin G. Welch and his father Willis G. Welch and settled onto their clothes, shoes, hands, face, hair, skin, and other body parts thus creating a situation whereby workers and bystanders including Plaintiff Melvin G. Welch would be exposed to dangerous asbestos dust beyond the present.

161. The asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products described herein were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air, and the inhalation of asbestos fibers causes serious disease and death. Here, the handling of the above-described asbestos-containing materials by Defendants' employees, as required by their employment and occurring during the course and scope of their employment, did, in fact, cause personal injuries, including mesothelioma, lung cancer and other lung damage, to exposed persons, including Plaintiffs.

162. At all times herein mentioned, Defendants knew or should have known that its employees and bystanders thereto, including Plaintiff Melvin G. Welch and his father Willis G. Welch, frequently encountered asbestos-containing products and materials during the course and scope of their work activities.

163. At all times herein mentioned, Defendants knew or should have known that the asbestos-containing materials encountered by its employees and bystanders thereto including Plaintiff Melvin G. Welch and his father Willis G. Welch, were unsafe in that harmful asbestos fibers were released during the use, handling, breaking, or other manipulation of asbestos-containing products and materials, and that once released, asbestos fibers can be inhaled, and can

alight on the clothes, shoes, skin, hair, and body parts of those exposed, where further activity causes the fibers to once again be released into the air where they can be inhaled, all of which causes serious disease and/or death.

164. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that absent adequate training and supervision, their employees and bystanders thereto including Plaintiff Melvin G. Welch and his father Willis G. Welch were neither qualified nor able to identify asbestos-containing products nor to identify the hazardous nature of their work activities involving asbestos-containing products.

165. At all times herein mentioned, Plaintiff Melvin G. Welch and his father Willis G. Welch were unaware of the dangerous condition and unreasonable risk of personal injury created by the presence and use of asbestos-containing products and materials.

166. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that workers and bystanders thereto, would bring dangerous dust home from the workplace and contaminate their family cars and homes, continuously exposing and potentially causing injury to others off the premises.

167. At all times herein mentioned, Defendants had a duty to use due care in the selection, supply, distribution and disturbance of asbestos-containing products and materials to its employees, to adequately instruct, train, and supervise their employees and to implement adequate safety policies and procedures to protect workers and persons encountering those workers, including Plaintiff Melvin G. Welch, from suffering injury or death as a result of the asbestos hazards encountered and created by the work of Defendants' employees.

168. Defendants' duties as alleged herein exist and existed independently of Defendants' duties to maintain their premises in reasonably safe condition, free from concealed hazards.

169. Defendants negligently selected, supplied, and distributed the asbestos-containing materials and failed to adequately train or supervise their employees to identify asbestos-containing products and materials; to ensure the safe handling of asbestos-containing products and materials encountered during the course of their work activities; and to guard against inhalation of asbestos fibers and against the inhalation of asbestos fibers by those who would come into close contact with them after they had used, disturbed, or handled, said asbestos-containing products and materials during the course and scope of their employment by Defendants.

170. Defendants failed to warn their employees and bystanders thereto, including Plaintiff Melvin G. Welch and his father Willis G. Welch, of the known hazards associated with asbestos and the asbestos-containing materials they were using and/or disturbing.

171. As a direct and proximate result of the conduct of Defendants in selecting, supplying, distributing and disturbing asbestos-containing materials or products manufactured for foreseeable use with asbestos products and failing to adequately train and supervise their employees and failing to adopt and implement adequate safety policies and procedures as alleged herein, Plaintiff Melvin G. Welch became exposed to and inhaled asbestos fibers, which was a substantial factor in causing Plaintiff Melvin G. Welch to develop asbestos-related disease mesothelioma, and to suffer all damages attendant thereto.

FOR A FIFTH CAUSE OF ACTION
(Negligence Per Se)

As a Fifth Distinct Cause of Action for Negligence Per Se, Plaintiffs Complain of Defendants, and Allege as Follows:

172. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

173. The actions of Defendants also constituted negligence per se.

174. Defendants violated federal and state regulations relating to asbestos exposure. Such violations constitute negligence per se or negligence as a matter of law. Further, each such violation resulted in dangerous and unlawful exposures to asbestos for Plaintiff Melvin G. Welch. Plaintiffs are not making any claims under federal law; instead, Plaintiffs are simply using the violation of federal standards as proof of liability on their state-law theories. Further, the reference to Federal regulations does not create a federal question. *See Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804 (1986). Any removal on this basis will be met with an immediate motion for remand and for sanctions.

175. The negligence per se of Defendants was a proximate cause of Plaintiffs' injuries.

FOR A SIXTH CAUSE OF ACTION
(Negligence as to Design Defendants)

As a Sixth Distinct Cause of Action for Negligence, Plaintiffs Complain of Design Defendants and Allege as Follows:

176. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

177. The work performed by the Design Defendants was defective in all, but not limited to, the following particulars:

- (a) In failing and neglecting to properly inspect the building for defects in the construction, design, and defects in the asbestos-containing products, materials and/or equipment.
- (b) In failing and neglecting to properly train employees in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (c) In failing and neglecting to properly supervise employees, contractors, subcontractors, and/or suppliers in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (d) In failing and neglecting to employ careful contractors and/or employees.

- (e) In failing and neglecting to properly install asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (f) In failing to properly install the asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (g) In failing to properly warn Plaintiff Melvin G. Welch and his father Willis G. Welch of dangers and risks associated with the conditions of the material and work product which was being installed for use by Plaintiff and others in his vicinity.
- (h) By such other failures as will be proved at trial.

All of which is contrary to one or more of workmanlike practice; the plans, specifications, and other contract documents; manufacturers' recommendations and instructions; trade custom and usage; and applicable building codes.

178. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiffs suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR A SEVENTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

As a Seventh Distinct Cause of Action for Negligent Design Services, Plaintiffs Complain of Design Defendants and Allege as Follows:

179. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

180. Design Defendants owed Plaintiff Melvin G. Welch and his father Willis G. Welch a duty to perform professional design services, including construction administration, in accordance with professional standards obtained in South Carolina for the delivery and performance of such services.

181. Design Defendants breached such professional standards in all, but not limited to, the following particulars:

- (a) In failing and neglecting to take reasonable care in the design of said building.
- (b) In failing and neglecting to properly design said building, to issue proper construction, to prevent continuous and substantial exposure to asbestos and/or asbestos-containing products.
- (c) In failing and neglecting to properly supervise the construction of said building.
- (d) In failing and neglecting to properly and reasonably design said building to eliminate exposure to asbestos and/or asbestos-containing products, including but not limited to asbestos-containing insulation.
- (e) In negligently specifying the use of inappropriate, improper and/or defective and deficient building systems, materials, and components, including but not limited to asbestos-containing insulation.
- (f) By such other failures as will be proved at trial.

182. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiffs have suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR AN EIGHTH CAUSE OF ACTION
(Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314)

As an Eighth Distinct Cause Of Action for Breach of Implied Warranties, Plaintiffs Complain of Defendants and Allege as Follows:

183. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

184. Each of the Defendants and/or their “alternate entities” impliedly warranted that their asbestos materials or asbestos-containing products were of good and merchantable quality and fit for their intended use.

185. The implied warranty made by the Defendants, and/or their alter egos, and/or their “alternate entities” that the asbestos and asbestos-containing products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Plaintiff Melvin G. Welch and his father Willis G. Welch carried out their duties and was as a result inhaled by Plaintiff Melvin G. Welch.

186. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to Defendants’ asbestos, asbestos-containing products, and/or products manufactured for foreseeable use with asbestos products and consequently developed mesothelioma, causing Plaintiffs to suffer all damages attendant thereto.

FOR A NINTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

For a Ninth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendants, and Allege as Follows:

187. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

188. That during, before and after Plaintiff Melvin G. Welch’s exposure to asbestos products manufactured by Defendants and/or their “alternate entities”, the Defendants and/or their “alternate entities” falsely represented facts, including the dangers of asbestos exposure to Plaintiff Melvin G. Welch and his father Willis G. Welch in the particulars alleged in the paragraphs above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiff Melvin G. Welch. At the same time of these misrepresentations, Defendants each knew

of the falsity of their representations and/or made the representations in reckless disregard of their truth or falsity.

189. The foregoing representations were material conditions precedent to Plaintiff Melvin G. Welch's continued exposure to asbestos-containing products. Defendants and/or their "alternate entities" each intended that Plaintiff Melvin G. Welch and his father Willis G. Welch act upon the representations by continuing his work around, and thereby exposure to, the asbestos products. Plaintiff Melvin G. Welch and his father Willis G. Welch were ignorant of the falsity of Defendants' representations and rightfully relied upon the representations.

190. As a direct and proximate result Plaintiff Melvin G. Welch's and his father Willis G. Welch's reliance upon Defendants' false representations, Plaintiffs have injury and damages as described herein.

FOR A TENTH CAUSE OF ACTION

(Conspiracy, Concert of Action – Defendant Metropolitan Life Insurance Company)

For a Tenth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendant Metropolitan Life Insurance Company, and Allege as Follows:

191. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

192. Beginning in the late 1920's, conspirators including Defendant Metropolitan Life Insurance Company ("Met Life"), as well as Johns-Manville, Raybestos-Manhattan and others, undertook a duty to conduct research on asbestos-related health problems and to inform the public about any health risks that could be associated therewith. In or about 1929, Met Life, through its agents and employees acting within the scope of their agency and employment, including but not limited to Dr. Anthony J. Lanza ("Lanza"), began an investigation of asbestos-related health hazards. In 1935, this study was altered by Lanza, with the full knowledge of Met Life, at the request of and in concert with the asbestos industry in order to wrongly influence the United States Public Health Service, the United States medical community and various state legislatures.

193. Thereafter, Defendant Met Life through the acts and omissions of its employees, most notably Lanza, undertook a series of activities with various members of the asbestos industry including but not limited to Johns-Manville, Raybestos-Manhattan/Raymark Industries, Inc., United States Gypsum, American Brake Blok/Abex, and others to suppress and misrepresent the dangers of exposure to asbestos dust to employees of Met Life's insureds and the general public and the medical community.

194. The conspirators through their agent, Lanza of Met Life, made a concerted effort to discredit and to terminate the experiments of certain scientists who were developing data of profound importance for the area of public health in relation to the cancer hazard which existed for workers and bystanders in the asbestos industry.

195. As a direct and proximate result of Met Life's intentional publication of deceptive and misleading medical data and information, and other conspiratorial acts and omissions, Defendant caused asbestos to be used in the occupational settings from which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to and breathed asbestos dust which resulted in Plaintiff Melvin G. Welch's injuries. Defendant Met Life, through its agents and employees and officers, aided and abetted and gave substantial assistance to Johns-Manville and Raybestos-Manhattan in their tortious selling of asbestos products and voluntarily undertook a duty to warn the United States Public Health Service, the medical community, and others about the danger of asbestos and consciously and negligently misrepresented the dangers of asbestos to the United States Public Health Service, the medical community, and others, all to the ultimate harm of Plaintiffs herein.

196. Defendant Met Life rendered substantial aid and assistance to the manufacturers of asbestos-containing products to which Plaintiff Melvin G. Welch was exposed, and such assistance by Met Life aided and abetted the negligence and the marketing of unreasonably dangerous

asbestos-containing products by such manufacturers which proximately caused Plaintiff Melvin G. Welch's illness.

197. In both conducting tests and in publishing their alleged results, Met Life failed to exercise reasonable care to conduct or publish complete, adequate and accurate tests of the health effects of asbestos. Met Life also caused to be published intentionally false, misleading, inaccurate and deceptive information about the health effects of asbestos exposure.

198. Plaintiff Melvin G. Welch unwittingly and justifiably relied upon the thoroughness of Met Life's tests and information dissemination, the results of which Met Life published in leading medical journals.

199. As a direct and proximate contributing result of Met Life's failures to conduct or accurately publish adequate tests or disseminate accurate and truthful information, after undertaking to do so; (i) the risk of harm to Plaintiff Melvin G. Welch from asbestos exposure was increased, and (ii) Plaintiffs suffered the injuries described herein.

200. In failing to test fully and adequately for the adverse health effects from exposure to asbestos; in delaying the publication of such results; and in falsely editing such results as were obtained; in suppressing relevant medical inquiry and knowledge about those hazards to promote the sale and distribution of asbestos as a harmless product; and in collaborating with the other Defendants materially to understate the hazards of asbestos exposure, all for its own profit and gain, Met Life acted recklessly, wantonly, and in calculated disregard for the welfare of the general public, including Plaintiff.

201. Additionally and alternatively, as a direct and proximate result of Met Life's actions and omissions, Plaintiff and his father Willis G. Welch were caused to remain ignorant of all the dangers of asbestos resulting in Plaintiff Melvin G. Welch, his father Willis G. Welch, their co-workers, their wives and families, and the general public to be unaware of the true and full dangers

of asbestos, depriving Plaintiff Melvin G. Welch and his father Willis G. Welch of the opportunity to decide for themselves whether they wanted to take the risk of being exposed to asbestos, denied Plaintiff Melvin G. Welch and his father Willis G. Welch the opportunity to take precautions against the dangers of asbestos and proximately caused Plaintiff's' damages herein.

202. During the relevant time period the Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to and did inhale and/or ingest asbestos dust, fibers, and particles, which dust, fibers, and particles came from the asbestos or asbestos-containing products which were mined, milled, manufactured, fabricated, supplied, and/or sold by the Johns Manville and/or Raybestos/Raymark.

203. Defendant, Met Life, together with Manville, Raymark and other persons and entities, known and unknown at times relevant hereto, engages in a conspiracy or concert of action to inflict injury on the Plaintiff Melvin G. Welch, and to withhold, alter, suppress and misrepresent information about the health effects of asbestos exposure. One or more of said conspirators did cause tortious injury to the Plaintiff Melvin G. Welch or his wife in the course of or as a consequence of the conspiracy or concert of action. At least the following enumerated acts were undertaken by the conspirators in the course of and in furtherance of the conspiracy or concert of action:

- (a) In 1932, Met Life, through Lanza and others, assisted Manville with medical examinations of over 1,000 employees of Manville's factory in Manville, New Jersey. The report of this study shows that a large percentage of the employees suffered from asbestosis including employees not directly involved in the manufacturing process. This 1932 medical survey was not published in the medical literature and, therefore, was unavailable to scientists studying the issue of asbestos-related disease. Further collaboration between Manville and Met Life continued the cover-up.
- (b) Beginning in approximately 1934, Manville, through its agents, Vandiver Brown and Attorney J.C. Hobart, suggested to Lanza, Associate Director of Met Life, which was then insurer of Manville and Raymark, that Lanza

publish a study on asbestosis in which Lanza would affirmatively misrepresent material facts about the health consequences of asbestos exposure. This was accomplished through intentional deletion of Lanza's description of asbestosis as 'fatal' and through other selective editing that affirmatively misrepresent asbestosis as a disease process less serious than it actually is and was known to be. As a result, Lanza's study was published in the medical literature in this misleading fashion in 1935. The conspirators were motivated, in part, to effectuate this fraudulent misrepresentation and fraudulent nondisclosure by the desire to influence proposed legislation to regulate asbestos exposure and to provide a defense in lawsuits involving Manville, Raymark, and Met Life as insurer. Furthermore, upon information and belief, it is alleged that Met Life, at all times relevant hereto, had substantial monetary investments in Manville and Raymark, among other asbestos product manufacturers and distributors.

- (c) In 1936, the conspirators or some of them entered into an agreement with the Saranac Laboratories. Under this agreement, these conspirators acquired the power to decide what information Saranac could publish about asbestos disease and to control in what form such publications would occur. This agreement gave these conspirators power to affirmatively misrepresent the results of the work at Saranac, and also gave these conspirators power to material facts included in any study. On numerous occasions thereafter, the conspirators exercised their power to prevent Saranac scientists from disclosing material scientific data, resulting in numerous misstatements of fact being made at scientific meetings.
- (d) By November 1948, or earlier, Manville, Met Life (acting through Lanza), Raymark, and others decided to exert their influence to materially alter and misrepresent material facts about the substance of research started by Dr. Leroy Gardner at the Saranac Laboratories beginning in 1936. Dr. Gardner's research involved carcinogenicity of asbestos in mice and also included an evaluation of the health effects of asbestos on humans with a critical review of the then-existing standards of dust exposure for asbestos and asbestos products.
- (e) At a meeting on November 11, 1948, these conspirators and others intentionally and affirmatively determined that Dr. Gardner's work should be edited to specifically delete material facts about the cancer-causing propensities of asbestos and the health effects of asbestos on humans and they determined that only an edited version would be published. These conspirators thereby fraudulently misrepresented the risks of asbestos exposure to the public, in general, and to the class of persons exposed to asbestos, including the Plaintiff.
- (f) As a direct result of influence exerted by the above described conspirators, Dr. Arthur Vorwald published Dr. Gardner's edited work in the Journal of Industrial Hygiene, AMA Archives of Industrial Hygiene and Occupational

Health in 1951 in a form that stressed those portions of Dr. Gardner's work that the conspirators wished stressed, but which omitted references to human asbestosis and cancer, thereby fraudulently and affirmatively misrepresenting the extent of the risks. The conspirators affirmatively and deliberately disseminated this misleading Vorwald publication to universities, libraries, government officials, agencies and others.

- (g) Such action constituted a material affirmative misrepresentation of the material facts involved in Dr. Gardner's work and resulted in creating an appearance that inhalation of asbestos was a less serious health concern than Dr. Gardner's unedited work indicated.
- (h) For many decades, Met Life, individually, jointly and in conspiracy with Manville and Raymark, have been in possession of medical and scientific data, literature, and test reports which clearly indicated that the inhalation of asbestos dust and fibers resulting from the ordinary foreseeable use of said asbestos-containing products and/or machinery requiring or calling for the use of asbestos or asbestos-containing products were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly.
- (i) Despite the medical and scientific data, literature and test reports possessed by and available to Met Life, individually and in conspiracy with Manville and Raymark, Fraudulently, willfully and maliciously withheld, concealed and suppressed said medical and scientific data, literature and test reports regarding the risks of asbestosis, cancer, mesothelioma, and other illnesses and diseases from Plaintiff who using and being exposed to Manville or Raymark asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products; caused to be released, published and disseminated medical and scientific data, literature and test reports containing information and statements regarding the risks of asbestosis, cancer, mesothelioma and other illnesses and diseases, which Metropolitan, Manville and Raymark knew were either incorrect, incomplete, outdated and misleading; distorted the results of medical examinations conducted upon workers who were using asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products and being exposed to the inhalation of asbestos dust and fibers by falsely stating and/or concealing the nature and extent of the harm which workers suffered; and failed to adequately warn the Plaintiff of the dangers to which he was exposed when they knew of the dangers.
- (j) By the false and fraudulent representations, omissions, failures, and concealments set forth above, Met Life, Manville and Raymark, individually, jointly, and in conspiracy with each other, intended to induce the Plaintiff to rely upon said false and fraudulent representations, omissions, failures, and concealments, to continue to expose themselves to

the dangers inherent in the use of and exposure to their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products. Said misrepresentations were false, incomplete, and misleading and constitute negligent misrepresentations as defined by Sections 311 and 522 of the Restatement (Second) of Torts.

204. Plaintiff Melvin G. Welch and his father Willis G. Welch reasonably and in good faith relied upon the false and fraudulent representations, omissions, failures, and concealments made by Met Life, Manville, and Raymark regarding the nature of their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products.

205. As a direct and proximate result of the conspiracy and concert of action between Met Life, Manville and Raymark, the Plaintiff Melvin G. Welch and his father Willis G. Welch have been deprived of the opportunity of informed free choice and connection with the use of and exposure to Manville and Raymark's asbestos and asbestos-containing products, and therefore continued to work with and be exposed to the co-conspirator corporation's asbestos and asbestos-containing products and as a result brought home on his clothes, hair, shoes, and in his case asbestos dust or fibers contracted asbestos-related diseases and other conditions, and/or aggravated pre-existing conditions, as a result of which the Plaintiffs have been damaged.

FOR AN ELEVENTH CAUSE OF ACTION
(Loss of Consortium)

For an Eleventh Distinct Cause of Action for Loss of Consortium, Plaintiff Donna B. Welch Complains of Defendants, and Alleges as Follows:

206. Plaintiff incorporates by reference, the preceding paragraphs, where relevant.

207. Plaintiffs Melvin G. Welch and Donna B. Welch were married November 26, 1972 and at all times relevant to this action were husband and wife.

208. Prior to his injuries as alleged, Plaintiff Melvin G. Welch was able and did perform his spousal duties. As a proximate result thereof, subsequent to the injuries, Plaintiff Melvin G.

Welch has been unable to perform his spousal duties and the work and service usually performed in the care, maintenance and management of the family home. As a proximate result thereof, Plaintiff Donna B. Welch was deprived of the consortium of her spouse, including the performance of duties, all to Plaintiffs' damages, in an amount presently unknown to Plaintiffs but which will be proven at time of trial.

209. As a direct and proximate result of the acts of Defendants and/or their "alternate entities" and the severe injuries caused to Plaintiff Melvin G. Welch as set forth herein, Plaintiff's spouse and co-Plaintiff Donna B. Welch suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, society, comfort, companionship, love and affection of her spouse, and has suffered severe mental and emotional distress and general nervousness. Plaintiffs pray judgment against Defendants, their "alternate entities" and each of them, as hereinafter set forth.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or their "alternate entities" in an amount to be proved at trial, as follows:

1. For Plaintiffs' actual damages according to proof, including pain and suffering, mental distress, as well as medical, surgical and hospital bills;
2. For loss of income or earnings according to proof;
3. For loss of care, comfort and society;
4. For punitive damages according to proof;
5. For Plaintiffs' cost of suit herein;
6. For damages for breach of implied warranty according to proof;
7. For damages for fraudulent misrepresentation according to proof;

8. For damages for conspiracy, concert of action (as to Defendant Metropolitan Life Insurance Company); and

9. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,

s/ Theile B. McVey

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Jamie D. Rutkoski (SC Bar No. 103270)

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ATTORNEYS FOR PLAINTIFFS

July 25, 2022

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

MELVIN G. WELCH and
DONNA B. WELCH

Plaintiffs,

v.

3M COMPANY

f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY

ACCEL PERFORMANCE GROUP LLC

f/k/a PRESTOLITE PERFORMANCE LLC,
successor to HAYES PERFORMANCE
BRAKES

ADVANCE AUTO PARTS, INC.

AMERICAN HONDA MOTOR CO., INC.

ATLAS ASBESTOS CO

ATLAS TURNER, INC.

as successor to ATLAS ASBESTOS CO, a
foreign company

AUTOZONE, INC.

BAHNSON, INC.

BEATY INVESTMENTS, INC.

f/k/a GUY M. BEATY & CO.

BELDEN INC.

d/b/a BELDEN 2010 INC.

BELDEN WIRE & CABLE COMPANY

BRIDGESTONE AMERICAS TIRE

OPERATIONS, LLC

f/k/a BRIDGESTONE FIRESTONE NORTH
AMERICAN TIRE, LLC

C/A NO. 2022-CP-40-03834

In Re:

Asbestos Personal Injury Litigation
Coordinated Docket

Living Mesothelioma

FIRST AMENDED COMPLAINT

(Jury Trial Demanded)

EXHIBIT

3.2

CAROLINA TOOL COMPANY	)
	)
COPELAND CORPORATION LLC	)
	)
COVIL CORPORATION	)
	)
DANIEL INTERNATIONAL CORPORATION	)
	)
DAVIS MECHANICAL CONTRACTORS, INC.	)
	)
DCO LLC	)
individually and as successor-in-interest to	)
VICTOR GASKET MANUFACTURING	)
COMPANY	)
	)
EATON CORPORATION	)
	)
ELLINGTON INSULATION COMPANY, INC.	)
	)
FISHER CONTROLS INTERNATIONAL LLC	)
	)
FLUOR CONSTRUCTORS INTERNATIONAL	)
f/k/a FLUOR CORPORATION	)
	)
FLUOR CONSTRUCTORS INTERNATIONAL, INC.	)
	)
FLUOR DANIEL SERVICES CORPORATION	)
	)
FLUOR ENTERPRISES, INC.	)
	)
FORD MOTOR COMPANY	)
	)
GENERAL ELECTRIC COMPANY	)
	)
GENERAL PARTS, INC.	)
individually and as successor-in-interest to	)
CARQUEST CORPORATION	)
	)
GENUINE PARTS COMPANY	)
d/b/a NAPA	)

GOODRICH CORPORATION

f/k/a THE B. F. GOODRICH COMPANY

**THE GOODYEAR TIRE & RUBBER
COMPANY**

GRAYBAR ELECTRIC COMPANY, INC.

**HEAT & FROST INSULATION
COMPANY, INC.**

HENNESSY INDUSTRIES, LLC

f/k/a HENNESSY INDUSTRIES, INC.

HONEYWELL INTERNATIONAL, INC.

individually and as successor-in-interest to
ALLIED SIGNAL, INC., as successor to
BENDIX CORPORATION

**INDUSTRIAL HOLDINGS
CORPORATION**

f/k/a THE CARBORUNDUM COMPANY

JOHNSON CONTROLS, INC.

MERITOR, INC.

f/k/a ARVINMERITOR, INC., successor-in-
interest to the former automotive products
segment of ROCKWELL INTERNATIONAL
CORPORATION

**METROPOLITAN LIFE INSURANCE
COMPANY**

a wholly owned subsidiary of METLIFE INC.

MORSE TEC LLC

f/k/a BORGWARNER MORSE TEC LLC, and
successor-by-merger to BORG-WARNER
CORPORATION

MW CUSTOM PAPERS, LLC

individually and as successor-in-interest to
MEADWESTVACO

**OCCIDENTAL CHEMICAL
CORPORATION**

as successor to DUREZ CORPORATION)
)
O'REILLY AUTO ENTERPRISES, LLC)
 individually and as successor-in-interest, parent,)
 alter ego and equitable trustee of KRAGEN)
 AUTO PARTS, GRAND AUTO SUPPLY,)
 O'REILLY AUTO PARTS and CSK AUTO,)
 INC.)
)
O'REILLY AUTOMOTIVE STORES, INC.)
)
PARAMOUNT GLOBAL)
 f/k/a VIACOMCBS INC., f/k/a CBS)
 CORPORATION, a Delaware corporation f/k/a)
 VIACOM, INC., successor-by-merger to CBS)
 CORPORATION, a Pennsylvania corporation,)
 f/k/a WESTINGHOUSE ELECTRIC)
 CORPORATION)
)
PFIZER, INC.)
)
PHARMACIA LLC)
 f/k/a PHARMACIA CORPORATION f/k/a)
 MONSANTO COMPANY)
)
PIEDMONT INSULATION, INC.)
)
PNEUMO ABEX LLC)
 successor-in-interest to ABEX CORPORATION)
)
REDCO CORPORATION)
 f/k/a CRANE CO.)
)
REINZ WISCONSIN GASKET LLC)
 f/k/a and/or successor to REINZ WISCONSIN)
 GASKET CO. and WISCONSIN GASKET)
 MANUFACTURING CO., a wholly owned)
 subsidiary of DCO LLC)
)
RILEY POWER INC.)
 f/k/a BABCOCK BORSIG POWER INC.,)
 f/k/a DB RILEY, INC., f/k/a RILEY STOKER)
 CORPORATION)
)
ROCKWELL AUTOMATION INC.)
 individually and as successor-in-interest to)
 ALLEN-BRADLEY COMPANY LLC, f/k/a)

ROCKWELL INTERNATIONAL	)
CORPORATION	)
	)
RUST ENGINEERING &	)
CONSTRUCTION, INC.	)
	)
RUST INTERNATIONAL INC.	)
	)
SAINT-GOBAIN ABRASIVES, INC.	)
f/k/a NORTON COMPANY	)
	)
SCHNEIDER ELECTRIC USA, INC.	)
f/k/a SQUARE D COMPANY	)
	)
SOUTHERN INSULATION, INC.	)
	)
SPIRAX SARCO, INC.	)
	)
UNION CARBIDE CORPORATION	)
	)
VISTRA INTERMEDIATE COMPANY	)
LLC	)
individually and as successor-in-interest to	)
CRSS INC.	)
	)
WESTROCK MWV, LLC	)
individually and as successor-in-interest to	)
WESTVACO	)
	)
WIND UP, LTD.	)
individually and as successor-in-interest to	)
PIPE & BOILER INSULATION, INC.	)
f/k/a CAROLINA INDUSTRIAL	)
INSULATING CO.	)
	)
ZF ACTIVE SAFETY US INC.	)
f/k/a KELSEY-HAYES COMPANY	)
	)
Defendants.	)
	)

PLAINTIFFS' FIRST AMENDED COMPLAINT

Plaintiffs, MELVIN G. WELCH and DONNA B. WELCH (hereinafter "Plaintiffs"), sue the named Defendants for compensatory and punitive damages, by and through their attorneys, and come before this court and allege as follows:

GENERAL ALLEGATIONS

1. Plaintiff Melvin G. Welch has been diagnosed with mesothelioma caused by exposure to asbestos dust and fibers. This exposure occurred as a result of his father Willis G. Welch's work with and around asbestos-containing products, which caused asbestos containing dust to cover his father's clothing, vehicle, and body which he brought home to Plaintiff Melvin G. Welch, who was then exposed to said asbestos dust and fibers. Plaintiff's exposure also occurred as a result of his own work with and around asbestos-containing products.

2. This Court has personal jurisdiction over Defendants because Plaintiffs' claims arise from Defendants' conduct in:

- (a) Transacting business in this State, including the sale, supply, purchase, and/or use of asbestos and/or asbestos-containing products, within this State;
- (b) Contracting to supply services or things in the State;
- (c) Commission of a tortious act in whole or in part in this State;
- (d) Having an interest in, using, or possessing real property in this State; and/or
- (e) Entering into a contract to be performed in whole or in part by either party in this State.

3. Each Defendant, or its predecessors in interest, that manufactured, sold, and/or distributed asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action are referred to herein as "Product Defendants." At all times relevant to this action, the Product Defendants and the predecessors of the Product

Defendants for whose actions the Product Defendants are legally responsible, were engaged in the manufacture, sale and distribution of asbestos-containing products and raw materials.

4. Each Defendant, or its predecessors in interest, that owned and/or controlled the work sites where Plaintiff Melvin G. Welch and his father, Willis G. Welch, experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment in their immediate vicinity are referred to herein as the “Premises Defendants.” At all times relevant to this action:

- (a) the Premises Defendants owned the property and approved the use of asbestos-containing materials on its premises.
- (b) the Premises Defendants invited Plaintiff Melvin G. Welch, as an instrumentation specialist helper and his father, Willis G. Welch, as a welder, on to Defendant’s premises to perform construction work for Defendant’s benefit. Plaintiff and his father were invitees who had express permission to enter Defendant’s premises for the purpose of benefitting the owner (Defendant).
- (c) the Premises Defendants owed a duty of due care to discover risks and take safety precautions to warn of and eliminate unreasonable risks.
- (d) the Premises Defendants’ failure to warn of or eliminate the unreasonable risks associated with working on or around asbestos-containing materials on Defendants’ premises was a substantial factor contributing to cause Plaintiff Melvin G. Welch’s mesothelioma.

5. Each Defendant, or its predecessors in interest, that provided labor, materials, goods, and/or services as architects, consultants, engineers, draftsmen, technicians, surveyors, or otherwise in connection with the design and/or repairs at the work sites where Plaintiff Melvin G. Welch and his father Willis G. Welch experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment, are referred to herein as the “Design Defendants.”

6. Plaintiffs’ claims against the Product Defendants, as defined herein, arise out of Defendants’ purposeful efforts to serve directly or indirectly the market for their asbestos and/or

asbestos-containing products in this State, either through direct sales or through utilizing an established distribution channel with the expectation that their products would be purchased and/or used within South Carolina.

7. Plaintiffs' claims against the Premises Defendants, as defined herein, arise out of Defendants' ownership and/or control of real property located in South Carolina and the purchase and use of asbestos-containing products on their premises located in South Carolina, with which Plaintiff's father Willis G. Welch, worked, and as a result were exposed to asbestos.

8. Plaintiffs' claims against the Design Defendants, as defined herein, arise out of Defendants', and/or Defendants' employees', direct and/or indirect purchase and use of asbestos and/or asbestos-containing products, materials, or equipment at the various industrial sites located in South Carolina where Plaintiff Melvin G. Welch experienced occupational exposure to lethal doses of asbestos as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment.

9. All of the named Defendants are corporations who purposefully availed themselves of the privilege of doing business in this State, and whose substantial and/or systematic business in South Carolina exposed Plaintiff Melvin G. Welch to asbestos in this State, subjecting them to the jurisdiction of the South Carolina courts pursuant to the South Carolina Long-Arm Statute and the United States Constitution.

10. In addition to being exposed through his own work, Plaintiff Melvin G. Welch was exposed to asbestos through asbestos dust and fibers brought home on his father's work clothes, from asbestos dust in his father's vehicle and asbestos dust on his father's body including his hair, and from the dust being distributed and re-entrained in their home. His exposure to asbestos dust and fibers occurred through his father's work clothing and person when greeting him at the end of his father's workday, through spending time in his vehicle in which asbestos dust and fibers had been deposited, and

through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their family's home.

11. Plaintiff Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

12. Neither Plaintiffs, nor Plaintiff's father Willis G. Welch, were aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

13. Both Plaintiff Melvin G. Welch and his father Willis G. Welch worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured and/or sold by the Product Defendants and used on property owned and controlled by the Premises Defendants. Plaintiff's father Willis G. Welch brought asbestos home with him on his person and clothing, which caused Plaintiff Melvin G. Welch to be exposed to asbestos.

14. Each of the named Defendants is liable for damages stemming from its own tortious conduct or the tortious conduct of an "alternate entity" as hereinafter defined. Defendants are liable for the acts of their "alternate entity" and each of them, in that there has been a corporate name change, Defendant is the successor by merger, by successor in interest, or by other acquisition resulting in a virtual destruction of Plaintiffs' remedy against each such "alternate entity"; Defendants, each of them, have acquired the assets, product line, or a portion thereof, of each such "alternate entity"; such "alternate entities" have acquired the assets, product line, or a portion thereof of each such Defendant; Defendants, and each of them, caused the destruction of Plaintiffs' remedy against each such "alternate entity"; each such Defendant has the ability to

assume the risk-spreading role of each such “alternate entity;” and that each such defendant enjoys the goodwill originally attached to each “alternate entity.”

DEFENDANT	ALTERNATE ENTITY
3M COMPANY	MINNESOTA MINING AND MANUFACTURING COMPANY
ACCEL PERFORMANCE GROUP LLC	PRESTOLITE PERFORMANCE LLC and HAYES PERFORMANCE BRAKES
ATLAS TURNER, INC.	ATLAS ASBESTOS CO
BEATY INVESTMENTS, INC.	GUY M. BEATY & CO.
BELDEN INC.	BELDEN 2010 INC.
BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC	BRIDGESTONE FIRESTONE NORTH AMERICAN TIRE, LLC
DCO LLC	VICTOR GASKET MANUFACTURING COMPANY
FLUOR CONSTRUCTORS INTERNATIONAL	FLUOR CORPORATION
GENERAL PARTS, INC.	CARQUEST CORPORATION
GENUINE PARTS COMPANY	NAPA
GOODRICH CORPORATION	THE B. F. GOODRICH COMPANY
HENNESSY INDUSTRIES, LLC	HENNESSY INDUSTRIES, INC.
HONEYWELL INTERNATIONAL, INC.	ALLIED SIGNAL, INC. and BENDIX CORPORATION
INDUSTRIAL HOLDINGS CORPORATION	THE CARBORUNDUM COMPANY

DEFENDANT	ALTERNATE ENTITY
MERITOR, INC.	ARVINMERITOR, INC. and ROCKWELL INTERNATIONAL CORPORATION
METROPOLITAN LIFE INSURANCE COMPANY	METLIFE INC.
MORSE TEC LLC	BORGWARNER MORSE TEC LLC and BORG-WARNER CORPORATION
MW CUSTOM PAPERS, LLC	MEADWESTVACO
OCCIDENTAL CHEMICAL CORPORATION	DUREZ CORPORATION
O'REILLY AUTO ENTERPRISES, LLC	KRAGEN AUTO PARTS, GRAND AUTO SUPPLY, O'REILLY AUTO PARTS, and CSK AUTO, INC.
PARAMOUNT GLOBAL	VIACOMCBS INC., CBS CORPORATION, a Delaware corporation, VIACOM, INC., CBS CORPORATION, a Pennsylvania corporation, and WESTINGHOUSE ELECTRIC CORPORATION
PHARMACIA LLC	PHARMACIA CORPORATION and MONSANTO COMPANY
PNEUMO ABEX, LLC	ABEX CORPORATION
REDCO CORPORATION	CRANE CO.
REINZ WISCONSIN GASKET LLC	REINZ WISCONSIN GASKET CO., WISCONSIN GASKET & MANUFACTURING CO., and DCO LLC
RILEY POWER INC.	BABCOCK BORSIG POWER INC., DB RILEY, INC., and RILEY STOKER CORPORATION
ROCKWELL AUTOMATION INC.	ALLEN-BRADLEY COMPANY LLC and ROCKWELL INTERNATIONAL CORPORATION

DEFENDANT	ALTERNATE ENTITY
SAINT-GOBAIN ABRASIVES, INC.	NORTON COMPANY
SCHNEIDER ELECTRIC USA, INC.	SQUARE D COMPANY
VISTRA INTERMEDIATE COMPANY LLC	CRSS INC.
WESTROCK MWV, LLC	WESTVACO
WIND UP, LTD.	PIPE AND BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO.
ZF ACTIVE SAFETY US INC.	KELSEY-HAYES COMPANY

15. Plaintiffs have been informed and believe, and thereon allege, that at all times herein mentioned, Defendants or their “alternate entities” were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and existing under and by virtue of the laws of the State of South Carolina, or the laws of some other state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

16. Plaintiffs have been informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

17. As a direct and proximate result of the conduct as alleged within, Plaintiff Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung

damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

18. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Melvin G. Welch's medical treatment is ascertained.

19. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred, and will incur, loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs pray leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

20. Plaintiffs hereby disclaim each and every claim or cause of action which does or may arise from any United States armed forces service, or on any federal enclave. This disclaimer is not related solely to actions taken by or at the direction of a federal officer, but is, rather broader. Plaintiffs are not making any claims and are not alleging any causes of action against any entity for any asbestos exposure of any kind which occurred as a result of Plaintiff Melvin G. Welch's United States armed forces service. Moreover, Plaintiffs are further disclaiming each and every claim or cause of action arising from any exposure to asbestos as a result of the Plaintiff's presence on or at any federal enclave. Plaintiffs further disclaim each and every claim or cause of action arising under the United States Constitution and under any Federal Law or Regulation. Finally, Plaintiffs disclaim each and every claim or cause of action which may be asserted under federal admiralty or maritime law. Courts across the Country have found that such disclaimers are proper

and within the province of the Plaintiffs to disclaim. Any removal by any defendant on the basis of the disclaimed claims will result in a motion for sanctions and seeking attorneys' fees.

THE PARTIES

21. Plaintiffs Melvin G. Welch and Donna B. Welch are currently residents of the State of South Carolina. Plaintiff Melvin G. Welch was exposed to asbestos as a result of his father Willis G. Welch's career at various job sites, including but not limited to, locations in South Carolina. Plaintiff was exposed to asbestos dust and fibers taken home on his father, from asbestos dust in his father's vehicle, asbestos dust on his father's body including his hair, and from the dust being distributed and re-entrained. Plaintiff Melvin G. Welch was also exposed to asbestos during the course of his own career at various job sites, including but not limited to, locations in multiple states, including but not limited to South Carolina.

22. Defendant, **3M COMPANY**, f/k/a MINNESOTA MINING AND MANUFACTURING COMPANY, was and is a Delaware corporation with its principal place of business in Minnesota. At all times material hereto, 3M COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, or products fraudulently marketed to prevent asbestos exposure including, but not limited to, 3M masks and tape and 3M asbestos-containing products, including but not limited to auto body sealer. 3M COMPANY is sued as a Product Defendant. Plaintiffs' claims against 3M COMPANY arise out of this Defendant's business activities in the State of South Carolina.

23. Defendant, **ACCEL PERFORMANCE GROUP LLC**, f/k/a PRESTOLITE PERFORMANCE LLC, successor to HAYES PERFORMANCE BRAKES, was and is a Delaware limited liability company with its principal place of business in Kentucky. At all times material hereto, ACCEL PERFORMANCE GROUP LLC mined, manufactured, processed, imported,

converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Hayes performance brakes. ACCEL PERFORMANCE GROUP LLC is sued as a Product Defendant. Plaintiffs' claims against ACCEL PERFORMANCE GROUP LLC arise out of this Defendant's business activities in the State of South Carolina.

24. Defendant, **ADVANCE AUTO PARTS, INC.**, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, ADVANCE AUTO PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, clutches, and gaskets. ADVANCE AUTO PARTS, INC. is sued as a Product Defendant. Plaintiffs' claims against ADVANCE AUTO PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

25. Defendant, **AMERICAN HONDA MOTOR CO., INC.**, was and is a California corporation with its principal place of business in California. At all times material hereto, AMERICAN HONDA MOTOR CO., INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. AMERICAN HONDA MOTOR CO., INC. is sued as a Product Defendant. Plaintiffs' claims against AMERICAN HONDA MOTOR CO., INC. arise out of this Defendant's business activities in the State of South Carolina.

26. Defendant, **ATLAS ASBESTOS CO**, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS ASBESTOS CO mined, manufactured, processed, imported,

converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers. ATLAS ASBESTOS CO is sued as a Product Defendant. Plaintiffs' claims against ATLAS ASBESTOS CO arise out of this Defendant's business activities in the State of South Carolina.

27. Defendant, **ATLAS TURNER, INC.**, as successor to ATLAS ASBESTOS CO, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS TURNER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers. ATLAS TURNER, INC. is sued as a Product Defendant. Plaintiffs' claims against ATLAS TURNER, INC. arise out of this Defendant's business activities in the State of South Carolina.

28. Defendant, **AUTOZONE, INC.**, was and is a Nevada corporation with its principal place of business in Tennessee. At all times material hereto, AUTOZONE, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. AUTOZONE, INC. is sued as a Product Defendant. Plaintiffs' claims against AUTOZONE, INC. arise out of this Defendant's business activities in the State of South Carolina.

29. Defendant, **BAHNSON, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BAHNSON, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing

products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. BAHNSON, INC. is sued as a Product Defendant. BAHNSON, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against BAHNSON, INC. arise out of this Defendant's business activities in the State of South Carolina.

30. Defendant, **BEATY INVESTMENTS, INC.**, f/k/a GUY M. BEATY & CO., was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BEATY INVESTMENTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. BEATY INVESTMENTS, INC. is sued as a Product Defendant. BEATY INVESTMENTS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against BEATY INVESTMENTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

31. Defendant, **BELDEN INC.**, d/b/a BELDEN 2010 INC., was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, BELDEN INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing wires, cables,

panels, and electrical controls. BELDEN INC. is sued as a Product Defendant. Plaintiffs' claims against BELDEN INC. arise out of this Defendant's business activities in the State of South Carolina.

32. Defendant, **BELDEN WIRE & CABLE COMPANY**, was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, BELDEN WIRE & CABLE COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing wires, cables, panels, and electrical controls. BELDEN WIRE & CABLE COMPANY is sued as a Product Defendant. Plaintiffs' claims against BELDEN WIRE & CABLE COMPANY arise out of this Defendant's business activities in the State of South Carolina.

33. Defendant, **BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC**, f/k/a BRIDGESTONE FIRESTONE NORTH AMERICAN TIRE, LLC, was and is a Delaware limited liability company with its principal place of business in Tennessee. At all times material hereto, BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing tires and friction products. BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC is sued as a Product Defendant. Plaintiffs' claims against BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC arise out of this Defendant's business activities in the State of South Carolina.

34. Defendant, **CAROLINA TOOL COMPANY**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, CAROLINA TOOL COMPANY mined, manufactured, processed, imported, converted,

compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, clutches, and gaskets, and based upon information and belief Carolina Tool Company was and is an authorized NAPA dealer. CAROLINA TOOL COMPANY is sued as a Product Defendant. Plaintiffs' claims against CAROLINA TOOL COMPANY arise out of this Defendant's business activities in the State of South Carolina.

35. Defendant, **COPELAND CORPORATION LLC**, was and is a Delaware limited liability company with its principal place of business in Ohio. At all times material hereto, COPELAND CORPORATION LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Copeland compressors. COPELAND CORPORATION LLC is sued as a Product Defendant. Plaintiffs' claims against COPELAND CORPORATION LLC arise out of this Defendant's business activities in the State of South Carolina.

36. Defendant, **COVIL CORPORATION**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, COVIL CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. COVIL CORPORATION is sued as a Product Defendant. COVIL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Covil Corporation, exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses

of asbestos. Plaintiffs' claims against COVIL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

37. Defendant, **DANIEL INTERNATIONAL CORPORATION**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, DANIEL INTERNATIONAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DANIEL INTERNATIONAL CORPORATION is sued as a Product Defendant. DANIEL INTERNATIONAL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against DANIEL INTERNATIONAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

38. Defendant, **DAVIS MECHANICAL CONTRACTORS, INC.**, was a South Carolina corporation with its principal place of business in North Carolina. At all times material hereto, DAVIS MECHANICAL CONTRACTORS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DAVIS MECHANICAL CONTRACTORS, INC. is sued as a Product Defendant. DAVIS MECHANICAL CONTRACTORS, INC. is also sued for the work it did at the various industrial sites in the

southeastern United States which, during the actual operations of Davis Mechanical Contractors, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against DAVIS MECHANICAL CONTRACTORS, INC. arise out of this Defendant's business activities in the State of South Carolina.

39. Defendant, **DCO LLC**, individually and as successor-in-interest to VICTOR GASKET MANUFACTURING COMPANY, was and is a Virginia limited liability company with its principal place of business in Tennessee. At all times material hereto, DCO LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Victor gaskets. DCO LLC is sued as a Product Defendant. Plaintiffs' claims against DCO LLC arise out of this Defendant's business activities in the State of South Carolina.

40. Defendant, **EATON CORPORATION**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, EATON CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Spicer brakes, Eaton brakes, and Cutler Hammer electrical products. EATON CORPORATION is sued as a Product Defendant. Plaintiffs' claims against EATON CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

41. Defendant, **ELLINGTON INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, ELLINGTON INSULATION COMPANY, INC. manufactured, processed, imported,

converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. ELLINGTON INSULATION COMPANY, INC. is sued as a Product Defendant. ELLINGTON INSULATION COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Ellington Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against ELLINGTON INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

42. Defendant, **FISHER CONTROLS INTERNATIONAL LLC**, was and is a Delaware limited liability company with its principal place of business in Missouri. At all times material hereto, FISHER CONTROLS INTERNATIONAL LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Fisher valves and controls. FISHER CONTROLS INTERNATIONAL LLC is sued as a Product Defendant. Plaintiffs' claims against FISHER CONTROLS INTERNATIONAL LLC arise out of this Defendant's business activities in the State of South Carolina.

43. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL**, f/k/a/ FLUOR CORPORATION, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing

products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL arise out of this Defendant's business activities in the State of South Carolina.

44. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

45. Defendant, **FLUOR DANIEL SERVICES CORPORATION**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, FLUOR DANIEL SERVICES CORPORATION mined, manufactured, processed, imported,

converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR DANIEL SERVICES CORPORATION is sued as a Product Defendant. FLUOR DANIEL SERVICES CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR DANIEL SERVICES CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

46. Defendant, **FLUOR ENTERPRISES, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR ENTERPRISES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR ENTERPRISES, INC. is sued as a Product Defendant. FLUOR ENTERPRISES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR ENTERPRISES, INC. arise out of this Defendant's business activities in the State of South Carolina.

47. Defendant, **FORD MOTOR COMPANY**, was and is a Delaware corporation with its principal place of business in Michigan. At all times material hereto, FORD MOTOR

COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. FORD MOTOR COMPANY is sued as a Product Defendant. Plaintiffs' claims against FORD MOTOR COMPANY arise out of this Defendant's business activities in the State of South Carolina.

48. Defendant, **GENERAL ELECTRIC COMPANY**, was and is a New York corporation with its principal place of business in Massachusetts. At all times material hereto, GENERAL ELECTRIC COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing electric panels and wires. GENERAL ELECTRIC COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENERAL ELECTRIC COMPANY arise out of this Defendant's business activities in the State of South Carolina.

49. Defendant, **GENERAL PARTS, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, GENERAL PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. GENERAL PARTS, INC. is sued as a Product Defendant. Plaintiffs' claims against GENERAL PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

50. Defendant, **GENUINE PARTS COMPANY**, d/b/a NAPA, was and is a Georgia corporation with its principal place of business in Georgia. At all times material hereto, GENUINE

PARTS COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products, and based upon information and belief GENUINE PARTS COMPANY extended authorized dealership privileges to Carolina Tool Company. GENUINE PARTS COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENUINE PARTS COMPANY arise out of this Defendant's business activities in the State of South Carolina.

51. Defendant, **GOODRICH CORPORATION**, f/k/a THE B. F. GOODRICH COMPANY, was and is a New York corporation with its principal place of business in North Carolina. At all times material hereto, GOODRICH CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Goodrich brakes. GOODRICH CORPORATION is sued as a Product Defendant. Plaintiffs' claims against GOODRICH CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

52. Defendant, **THE GOODYEAR TIRE & RUBBER COMPANY**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, THE GOODYEAR TIRE & RUBBER COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. THE GOODYEAR TIRE & RUBBER COMPANY is sued as a Product Defendant. Plaintiffs' claims against THE GOODYEAR TIRE & RUBBER COMPANY arise out of this Defendant's business activities in the State of South Carolina.

53. Defendant, **GRAYBAR ELECTRIC COMPANY, INC.**, was and is a New York corporation with its principal place of business in Missouri. At all times material hereto, GRAYBAR ELECTRIC COMPANY, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. GRAYBAR ELECTRIC COMPANY, INC. is sued as a Product Defendant. Plaintiffs' claims against GRAYBAR ELECTRIC COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

54. Defendant, **HEAT & FROST INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, HEAT & FROST INSULATION COMPANY, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. HEAT & FROST INSULATION COMPANY, INC. is sued as a Product Defendant. HEAT & FROST INSULATION COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Heat & Frost Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against HEAT & FROST INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

55. Defendant, **HENNESSY INDUSTRIES, LLC**, f/k/a HENNESSY INDUSTRIES, INC., was and is a Delaware limited liability with its principal place of business in Tennessee. At

all times material hereto, HENNESSY INDUSTRIES, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, and/or equipment designed to be used with asbestos-containing products, including, but not limited to, Ammco Arc grinders and brake drum lathe and asbestos-containing grinders. HENNESSY INDUSTRIES, LLC is sued as a Product Defendant. Plaintiffs' claims against HENNESSY INDUSTRIES, LLC arise out of this Defendant's business activities in the State of South Carolina.

56. Defendant, **HONEYWELL INTERNATIONAL, INC.**, individually and as successor-in-interest to ALLIED SIGNAL, INC., as successor to BENDIX CORPORATION, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, HONEYWELL INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products, valves, and controls. HONEYWELL INTERNATIONAL, INC. is sued as a Product Defendant. Plaintiffs' claims against HONEYWELL INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

57. Defendant, **INDUSTRIAL HOLDINGS CORPORATION**, f/k/a THE CARBORUNDUM COMPANY, was and is a New York corporation with its principal place of business in New York. At all times material hereto, INDUSTRIAL HOLDINGS CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing grinding wheels and Black Magic Diamond. INDUSTRIAL HOLDINGS CORPORATION is sued as a

Product Defendant. Plaintiffs' claims against INDUSTRIAL HOLDINGS CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

58. Defendant, **JOHNSON CONTROLS, INC.**, was and is a Wisconsin corporation with its principal place of business in Wisconsin. At all times material hereto, JOHNSON CONTROLS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Johnson valves. JOHNSON CONTROLS, INC. is sued as a Product Defendant. Plaintiffs' claims against JOHNSON CONTROLS, INC. arise out of this Defendant's business activities in the State of South Carolina.

59. Defendant, **MERITOR, INC.**, f/k/a ARVINMERITOR, INC., successor-in-interest to the former automotive products segment of ROCKWELL INTERNATIONAL CORPORATION, was and is a Nevada corporation with its principal place of business in Michigan. At all times material hereto, MERITOR, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Rockwell brakes. MERITOR, INC. is sued as a Product Defendant. Plaintiffs' claims against MERITOR, INC. arise out of this Defendant's business activities in the State of South Carolina.

60. Defendant, **METROPOLITAN LIFE INSURANCE COMPANY**, a wholly-owned subsidiary of METLIFE INC., was and is a New York corporation with its principal place of business in New York. METROPOLITAN LIFE INSURANCE COMPANY has done and does business in the State of South Carolina. METROPOLITAN LIFE INSURANCE COMPANY is named as a conspiracy defendant.

61. Defendant, **MORSE TEC LLC**, f/k/a BORGWARNER MORSE TEC LLC, and successor-by-merger to BORG-WARNER CORPORATION, was and is a Delaware limited liability with its principal place of business in Michigan. At all times material hereto, MORSE TEC LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, including but not limited to Borg-Beck brakes, and clutches, including but not limited to Borg-Warner clutches and Rockford clutches. MORSE TEC LLC is sued as a Product Defendant. Plaintiffs' claims against MORSE TEC LLC arise out of this Defendant's business activities in the State of South Carolina.

62. Defendant, **MW CUSTOM PAPERS, LLC**, was and is a Delaware limited liability with its principal place of business in Georgia. At all times material hereto, MW CUSTOM PAPERS, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction paper. MW CUSTOM PAPERS, LLC is sued as a Product Defendant. Plaintiffs' claims against MW CUSTOM PAPERS, LLC arise out of this Defendant's business activities in the State of South Carolina.

63. Defendant, **OCCIDENTAL CHEMICAL CORPORATION**, as successor to DUREZ CORPORATION, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, OCCIDENTAL CHEMICAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing raw asbestos

fibers. OCCIDENTAL CHEMICAL CORPORATION is sued as a Product Defendant. Plaintiffs' claims against OCCIDENTAL CHEMICAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

64. Defendant, **O'REILLY AUTO ENTERPRISES, LLC**, individually and as successor-in-interest, parent, alter ego and equitable trustee of KRAGEN AUTO PARTS, GRAND AUTO SUPPLY, O'REILLY AUTO PARTS and CSK AUTO, INC., was and is a Delaware limited liability with its principal place of business in Missouri. At all times material hereto, O'REILLY AUTO ENTERPRISES, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. O'REILLY AUTO ENTERPRISES, LLC is sued as a Product Defendant. Plaintiffs' claims against O'REILLY AUTO ENTERPRISES, LLC arise out of this Defendant's business activities in the State of South Carolina.

65. Defendant, **O'REILLY AUTOMOTIVE STORES, INC.**, was and is a Missouri corporation with its principal place of business in Missouri. At all times material hereto, O'REILLY AUTOMOTIVE STORES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. O'REILLY AUTOMOTIVE STORES, INC. is sued as a Product Defendant. Plaintiffs' claims against O'REILLY AUTOMOTIVE STORES, INC. arise out of this Defendant's business activities in the State of South Carolina.

66. Defendant, **PARAMOUNT GLOBAL**, f/k/a VIACOMCBS INC., f/k/a CBS CORPORATION, a Delaware corporation f/k/a VIACOM, INC., successor-by-merger to CBS CORPORATION, a Pennsylvania corporation, f/k/a WESTINGHOUSE ELECTRIC

CORPORATION, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PARAMOUNT GLOBAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Westinghouse control panels and electrical equipment. PARAMOUNT GLOBAL is sued as a Product Defendant. Plaintiffs' claims against PARAMOUNT GLOBAL arise out of this Defendant's business activities in the State of South Carolina.

67. Defendant, **PFIZER, INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PFIZER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing talc. PFIZER, INC. is sued as a Product Defendant. Plaintiffs' claims against PFIZER, INC. arise out of this Defendant's business activities in the State of South Carolina.

68. Defendant, **PHARMACIA LLC**, f/k/a PHARMACIA CORPORATION f/k/a MONSANTO COMPANY, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, PHARMACIA LLC owned and/or controlled premises at which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to asbestos-containing products, equipment, and asbestos dust from said products at various facilities, including but not limited to, the Monsanto chemical plant in Greenwood, South Carolina. PHARMACIA LLC is sued as a Premises Defendant. Plaintiffs' claims against PHARMACIA LLC arise out of this Defendant's business activities in the State of South Carolina.

69. Defendant, **PIEDMONT INSULATION, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, **PIEDMONT INSULATION, INC.** mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. **PIEDMONT INSULATION, INC.** is sued as a Product Defendant. **PIEDMONT INSULATION, INC.** is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Heat & Frost Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against **PIEDMONT INSULATION, INC.** arise out of this Defendant's business activities in the State of South Carolina.

70. Defendant, **PNEUMO ABEX, LLC**, individually and as successor-in-interest to **ABEX CORPORATION**, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, **PNEUMO ABEX, LLC** mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. **PNEUMO ABEX, LLC** is sued as a Product Defendant. Plaintiffs' claims against **PNEUMO ABEX, LLC** arise out of this Defendant's business activities in the State of South Carolina.

71. Defendant, **REDCO CORPORATION**, f/k/a **CRANE CO.**, was and is a Delaware corporation with its principal place of business in Connecticut. At all times material hereto,

REDCO CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Cranite gaskets, Crane valves, and Crane pumps. REDCO CORPORATION is sued as a Product Defendant. Plaintiffs' claims against REDCO CORPORATION. Arise out of this Defendant's business activities in the State of South Carolina.

72. Defendant, **REINZ WISCONSIN GASKET LLC**, f/k/a and/or successor to REINZ WISCONSIN GASKET CO. and WISCONSIN GASKET & MANUFACTURING CO., a wholly owned subsidiary of DCO LLC, was and is a Delaware limited liability company with its principal place of business in Wisconsin. At all times material hereto, REINZ WISCONSIN GASKET LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing **friction products**. REINZ WISCONSIN GASKET LLC is sued as a Product Defendant. Plaintiffs' claims against REINZ WISCONSIN GASKET LLC arise out of this Defendant's business activities in the State of South Carolina.

73. Defendant, **RILEY POWER INC.**, f/k/a BABCOCK BORSIG POWER INC., f/k/a DB RILEY, INC., f/k/a RILEY STOKER CORPORATION, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, RILEY POWER INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Riley boilers. RILEY POWER INC. is sued as a Product Defendant. Plaintiffs' claims

against RILEY POWER INC. arise out of this Defendant's business activities in the State of South Carolina.

74. Defendant, **ROCKWELL AUTOMATION INC.**, individually and as successor-in-interest ALLEN-BRADLEY COMPANY LLC, f/k/a ROCKWELL INTERNATIONAL CORPORATION, was and is a Delaware corporation with its principal place of business in Wisconsin. At all times material hereto, ROCKWELL AUTOMATION INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Allen-Bradley electrical panels. ROCKWELL AUTOMATION INC. is sued as a Product Defendant. Plaintiffs' claims against ROCKWELL AUTOMATION INC. arise out of this Defendant's business activities in the State of South Carolina.

75. Defendant, **RUST ENGINEERING & CONSTRUCTION, INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST ENGINEERING & CONSTRUCTION, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST ENGINEERING & CONSTRUCTION, INC. is sued as a Product Defendant and a Design Defendant. RUST ENGINEERING & CONSTRUCTION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims

against RUST ENGINEERING & CONSTRUCTION, INC. arise out of this Defendant's business activities in the State of South Carolina.

76. Defendant, **RUST INTERNATIONAL INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST INTERNATIONAL INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST INTERNATIONAL INC. is sued as a Product Defendant and a Design Defendant. RUST INTERNATIONAL INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against RUST INTERNATIONAL INC. arise out of this Defendant's business activities in the State of South Carolina.

77. Defendant, **SAINT-GOBAIN ABRASIVES, INC.**, f/k/a NORTON COMPANY, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, SAINT-GOBAIN ABRASIVES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Norton grinding wheels. SAINT-GOBAIN ABRASIVES, INC. is sued as a Product Defendant. Plaintiffs' claims against SAINT-GOBAIN ABRASIVES, INC. arise out of this Defendant's business activities in the State of South Carolina.

78. Defendant, **SCHNEIDER ELECTRIC USA, INC.**, f/k/a SQUARE D COMPANY, was and is a Delaware corporation with its principal place of business in Massachusetts. At all times material hereto, SCHNEIDER ELECTRIC USA, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Square D electrical panels and components. SCHNEIDER ELECTRIC USA, INC. is sued as a Product Defendant. Plaintiffs' claims against SCHNEIDER ELECTRIC USA, INC. arise out of this Defendant's business activities in the State of South Carolina.

79. Defendant, **SOUTHERN INSULATION, INC.**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, SOUTHERN INSULATION, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation at numerous jobsites throughout the southeastern United States. SOUTHERN INSULATION, INC. is sued as a Product Defendant. SOUTHERN INSULATION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Southern Insulation, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against SOUTHERN INSULATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

80. Defendant, **SPIRAX SARCO, INC.**, was and is a Delaware corporation with its principal place of business in South Carolina. At all times material hereto, SPIRAX SARCO, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced,

repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Sarco steam traps. SPIRAX SARCO, INC. is sued as a Product Defendant. Plaintiffs' claims against SPIRAX SARCO, INC. arise out of this Defendant's business activities in the State of South Carolina.

81. Defendant, **UNION CARBIDE CORPORATION**, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, UNION CARBIDE CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers and asbestos-containing phenolic molding products. UNION CARBIDE CORPORATION is sued as a Product Defendant. Plaintiffs' claims against UNION CARBIDE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

82. Defendant, **VISTRA INTERMEDIATE COMPANY LLC**, individually and as successor-in-interest to CRSS INC., was and is a Delaware limited liability corporation with its principal place of business in Texas. At all times material hereto, VISTRA INTERMEDIATE COMPANY LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. VISTRA INTERMEDIATE COMPANY LLC is sued as a Product Defendant and a Design Defendant. VISTRA INTERMEDIATE COMPANY LLC is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of

asbestos. Plaintiffs' claims against VISTRA INTERMEDIATE COMPANY LLC arise out of this Defendant's business activities in the State of South Carolina.

83. Defendant, **WESTROCK MWV, LLC**, as successor-in-interest to WESTVACO, was and is a Delaware limited liability company with its principal place of business in Georgia. At all times material hereto, WESTROCK MWV, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction paper. WESTROCK MWV, LLC is sued as a Product Defendant. Plaintiffs' claims against WESTROCK MWV, LLC arise out of this Defendant's business activities in the State of South Carolina.

84. Defendant, **WIND UP, LTD.**, individually and as successor-in-interest to PIPE & BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO., was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, WIND UP, LTD. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. WIND UP, LTD. is sued as a Product Defendant. WIND UP, LTD. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Wind Up, Ltd., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against WIND UP, LTD. arise out of this Defendant's business activities in the State of South Carolina.

85. Defendant, **ZF ACTIVE SAFETY US INC.**, f/k/a KELSEY-HAYES COMPANY, was and is a Delaware corporation with its principal place of business in Michigan. At all times material hereto, ZF ACTIVE SAFETY US INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Kelsey-Hayes brakes and clutches. ZF ACTIVE SAFETY US INC. is sued as a Product Defendant. Plaintiffs' claims against ZF ACTIVE SAFETY US INC. arise out of this Defendant's business activities in the State of South Carolina.

86. Plaintiff Melvin G. Welch was exposed through his father, Willis G. Welch, and also experienced further occupational exposure himself, as a result of each of them working with and around asbestos-containing equipment in their immediate vicinities at their work sites, including but not limited to, the premises of Defendant PHARMACIA LLC (collectively, hereinafter the "Premises Defendants"). All other Defendants, or their applicable predecessors in interest, (except for METROPOLITAN LIFE INSURANCE COMPANY) were engaged in the manufacture, sale, distribution and/or installation of asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action. At all times relevant to this action, the Defendants and the predecessors of the Defendants, for whose actions the Defendants are legally responsible, were engaged in the manufacture, sale, distribution, and/or installation of asbestos-containing products and raw materials for use in South Carolina and other states at times relevant to this action.

BACKGROUND FACTS

87. Plaintiff Melvin G. Welch brings this action for monetary damages as a result of contracting an asbestos-related disease.

88. Plaintiff Melvin G. Welch was diagnosed with mesothelioma on or about June 27, 2022.

89. Plaintiff Melvin G. Welch's mesothelioma was caused by his exposure to asbestos during the course of his own work in various roles, including but not limited to instrumentation specialist helper and mechanic, as well as through the asbestos carried home on the clothing and person of his father during the years he lived in the family home.

90. During his work history, Plaintiff Melvin G. Welch was exposed to Defendants' asbestos-containing products through his work as an instrumentation specialist helper for Daniel Construction at the Monsanto chemical plant in Greenwood, South Carolina in the mid-late 1960s. Plaintiff performed a variety of tasks throughout the facilities where he worked, which included, but were not limited to, installing instrumentation on various forms of equipment. On these jobsites, he worked with and around asbestos-containing products, including but not limited to pipe and block insulation, cements, spray insulation, gaskets, packing materials, refractory motor and firebrick for use on turbines, boilers, pipes, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Plaintiff to asbestos and asbestos-dust.

91. During his work history, Plaintiff was further exposed through his work around other trades including but not limited to laborers, sheet metal workers, welders, pipefitters, boilermakers, insulators, electricians, and maintenance mechanics. Plaintiff worked near and closely to a variety of tradesmen working on asbestos-containing pipe and block insulation, cements, spray insulation, gaskets, packing material, refractory motor and firebrick for use on

turbines, boilers, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Plaintiff to asbestos and asbestos dust.

92. During his work history, Plaintiff was further exposed to Defendants' asbestos-containing products through his work as an automobile mechanic at various jobsites located in South Carolina from approximately the late 1970s to the mid-late 2000s. Plaintiff worked as a mechanic performing a variety of tasks including but not limited to preventative maintenance and repair work of engines, transmissions, shocks, exhaust, clutches, gaskets, and brakes. He was also required to clean the repair bays, which involved sweeping asbestos dust without any protection. All of these activities exposed Plaintiff to asbestos.

93. Through his work as a mechanic, Plaintiff worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured, sold, supplied and/or distributed by Defendants identified above.

94. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at K-Mart in Greenwood, South Carolina from approximately the late 1970s to the late 1980s.

95. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at M&M Tire in Greenwood, South Carolina from approximately the late 1980s to the mid 1990s.

96. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at Western Auto in Greenwood, South Carolina from approximately the mid 1990s to the mid-late 2000s.

97. Plaintiff also was exposed to Defendants' asbestos-containing friction products during various times throughout his life while performing maintenance and changing the brakes, clutches, and gaskets on his personal vehicles and the vehicles of his friends and family throughout South Carolina from approximately the early 1970s to the present. These activities exposed Plaintiff to asbestos.

98. During the course of Plaintiff Melvin G. Welch's employment at the location(s) mentioned above, during other occupational work projects and in other ways, Plaintiff was exposed to and inhaled, ingested, or otherwise absorbed asbestos dust and fibers emanating from certain products he was working around.

99. Plaintiff Melvin G. Welch was further exposed as a result of his father Willis G. Welch's employment for Daniel Construction as a welder at the Monsanto chemical plant in Greenwood, South Carolina from approximately the mid to the late 1960s. Plaintiff's father performed a variety of tasks throughout the facilities, and was further exposed through his work around various other trades, including, but not necessarily limited to, premises workers and other maintenance workers, insulators, pipefitters, welders, boilermakers, electricians, and others who installed and removed asbestos materials.

100. While employed at the Monsanto chemical plant in Greenwood, South Carolina, Plaintiff's father Willis G. Welch wore his own clothes to work, was exposed to asbestos dust and fibers that he brought home on his work clothes, fell off in his vehicle and were on his body including his hair, that distributed and re-entrained in his vehicle and home which caused Plaintiff Melvin G. Welch to be exposed to said asbestos dust in sufficient amounts as to cause him to develop mesothelioma.

101. From approximately the early 1960s to the early 1970s, Plaintiff Melvin G. Welch was exposed to asbestos dust and fibers from products, services, and goods manufactured,

distributed and/or sold by Defendants for use at Plaintiff's father Willis G. Welch's jobsites which Plaintiff came in contact with off premises by contact with his father's work clothes, personal possessions and vehicle. Plaintiff's exposure to asbestos dust and fibers occurred through his contact with his father's work clothing and person when greeting him at the end of his workday, through spending time in his father's vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their home.

102. Plaintiff Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

103. Plaintiffs and Plaintiff Melvin G. Welch's father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

104. Plaintiffs are informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

105. As a direct and proximate result of the conduct as alleged within, Plaintiff Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

106. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred, and will incur, liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Melvin G. Welch's medical treatment is ascertained.

107. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiffs incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs request leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiffs Complain of Defendants for a Cause of Action for Negligence Alleging as Follows:

108. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

109. At all times herein mentioned, each of the named Defendants were an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as "alternate entities," engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain

product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products.

110. At all times herein mentioned, Defendants and/or their “alternate entities” singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, assembled, distributed, leased, bought, offered for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products, in that said products caused personal injuries to Plaintiff Melvin G. Welch and others similarly situated, (hereinafter collectively called “exposed persons”), while being used for their intended purpose and in a manner that was reasonably foreseeable.

111. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos and asbestos-containing products from causing Plaintiff Melvin G. Welch’s mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff’s lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their “alternate entities.” Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or their “alternate entities.” The gravity of the potential harm resulting from the use of Defendants’ asbestos or asbestos-containing products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality

in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Plaintiff Melvin G. Welch and his father Willis G. Welch. Defendants and/or their “alternate entities” had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants, each of them, breached said duty of due care.

112. Defendants and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and asbestos-containing products would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Plaintiff Melvin G. Welch and his father Willis G. Welch, would use or be in proximity to and exposed to said asbestos fibers.

113. At all times relevant, Defendants and/or their “alternate entities” were aware of their asbestos and asbestos-containing products’ defect but failed to adequately warn Plaintiff Melvin G. Welch, Plaintiff’s family members or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed to recall or retrofit their products. A reasonable manufacturer, distributor, or seller of Defendants’ products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

114. Plaintiff Melvin G. Welch, Plaintiff's family members and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein in a manner that was reasonably foreseeable. Plaintiff's and his father Willis G. Welch's exposure to asbestos and asbestos-containing products occurred at various locations as set forth in this Complaint.

115. Plaintiff Melvin G. Welch suffers from mesothelioma, a cancer related to exposure to asbestos and asbestos-containing products. Plaintiff Melvin G. Welch and his father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury or disease.

116. Defendants' conduct and defective products as described in this cause of action were a direct cause of Plaintiff Melvin G. Welch's injuries, and all damages thereby sustained by Plaintiff Melvin G. Welch. Plaintiffs therefore seek all compensatory damages in order to make them whole, according to proof.

117. Furthermore, the conduct of Defendants and/or their "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiff Melvin G. Welch and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Plaintiff Melvin G. Welch and others similarly situated.

118. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, Defendants and/or their "alternate

entities” did so with conscious disregard for the safety of “exposed persons” who came in contact with asbestos and asbestos-containing products, in that Defendants and/or their “alternate entities” had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, asbestosis, mesothelioma, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

119. Defendants and their “alternate entities” were aware that members of the general public and other “exposed persons,” who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products, could cause injury, and Defendants and their “alternate entities,” each of them, knew that members of the general public and other “exposed persons,” who came in contact with asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact said exposure was extremely hazardous to health and human life.

120. The above-referenced conduct of Defendants and their “alternate entities,” was motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing, uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Defendants, their “alternate entities,” and each of them consciously disregarded the safety of “exposed persons” in pursuit of profit.

Defendants were consciously willing and intended to permit asbestos and asbestos-containing products to cause injury to “exposed persons” without warning them of the potential hazards and further induced persons to work with and be exposed thereto, including Plaintiff Melvin G. Welch.

121. Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos containing-products, and products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Defendants and/or their "alternate entities" further failed to adequately warn of the risks to which Plaintiff and others similarly situated were exposed.

122. Defendants and/or their “alternate entities” are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their “alternate entities” as set forth herein.

123. The herein-described conduct of Defendants and their “alternate entities,” was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiffs, for the sake of example and by way of punishing said Defendants, seek punitive damages according to proof against all defendants.

FOR A SECOND CAUSE OF ACTION

(Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

124. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

125. Plaintiff Melvin G. Welch has suffered from mesothelioma, a cancer related to exposure to asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Plaintiff Melvin G. Welch was not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

126. The Products Defendants' conduct and defective products as described above were a direct cause of Plaintiff Melvin G. Welch's injuries, and the injuries and damages thereby sustained by Plaintiffs.

127. Furthermore, the Defendants' conduct and that of their "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiff Melvin G. Welch and the public without adequate warnings or proper use instructions, was done in a conscious disregard and indifference to the safety and health of Plaintiff Melvin G. Welch and others similarly situated.

128. Defendants and/or their "alternate entities" knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, "rip-out," and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling, "exposed persons," including Plaintiff, would use or be in proximity to and exposed to said asbestos fibers.

129. Plaintiff Melvin G. Welch, Plaintiff's family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, referred to herein in a manner that was

reasonably foreseeable. Plaintiff Melvin G. Welch's exposure to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products occurred at various locations as set forth in this Complaint.

130. Defendants and/or their "alternate entities" knew and intended that the above-referenced asbestos and asbestos-containing products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

131. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants' asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiff Melvin G. Welch's mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff's lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products of Defendants and/or their "alternate entities." The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing products, and the likelihood such harm would occur, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

132. The defect existed in the said products at the time they left the possession of defendants and/or their “alternate entities,” and each of them. Said products were intended to reach the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including mesothelioma, asbestosis, other lung damage, and cancer to “exposed persons,” including Plaintiff Melvin G. Welch herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

133. Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Said Defendants and/or their “alternate entities” further failed to adequately warn of the risks to which Plaintiff Melvin G. Welch and others similarly situated were exposed.

134. Defendants’ defective products as described above were a direct cause of Plaintiff Melvin G. Welch’s injuries, and the damages thereby sustained.

135. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, Defendants and/or their “alternate entities,” and each of them, did so with conscious disregard for the safety of Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons who came in contact with the asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, in that Defendants and/or their

“alternate entities” had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, mesothelioma, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

136. Defendants and/or their “alternate entities” were aware that members of the general public and other exposed persons, who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products could cause injury. Defendants and/or their “alternate entities” further knew that members of the general public and other exposed persons, who came in contact with asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact exposure was extremely hazardous to health and human life.

137. The above-referenced conduct of Defendants and/or their “alternate entities” motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products. Defendants and/or their “alternate entities” consciously disregarded the safety of “exposed persons” in their pursuit of profit and in fact consciously intended to cause injury to Plaintiff Melvin G. Welch and other exposed persons

and induced persons to work with, be exposed to, and thereby injured by asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products.

138. Defendants are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of their “alternate entities” as set forth herein.

139. The conduct of said defendants, their “alternate entities,” and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons. Plaintiffs, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against all defendants.

140. At all times herein mentioned, each of the named Defendants, and/or their “alternate entities,” was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos and products manufactured for foreseeable use with asbestos products.

FOR A THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondeat Superior)

As a Third Distinct Cause of Action Against Defendants, Plaintiffs Bring this Third Cause of Action for Vicarious Liability of Product and Premises Defendants Based upon Respondeat Superior and Allege as Follows:

141. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

142. Prior to and during all relevant times Defendants and/or their “alternate entities” employed workers (hereinafter “employees”) in areas where defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff Melvin G. Welch and/or his father Willis G. Welch worked and/or spent time as alleged above.

143. At all times herein mentioned, Defendants’ employees frequently encountered asbestos-containing products, materials, and debris during the course and scope of their employment, and during their regular work activities negligently disturbed asbestos-containing materials to which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed.

144. Employees handling and disturbing asbestos-containing products in Plaintiff Melvin G. Welch’s and his father Willis G. Welch’s vicinity were the agents and employees of defendants and at all times relevant were subject to the control of Defendants with respect to their acts, labor, and work involving (a) the removal, transport, installation, cleaning, handling, and maintenance of asbestos-containing products, materials, and debris, and (b) the implementation of safety policies and procedures. Defendants controlled both the means and manner of performance of the work of their employees as described herein.

145. Employees handling and disturbing asbestos-containing products in Plaintiff Melvin G. Welch’s, Plaintiff’s family members and others’ vicinity received monetary

compensation from Defendants in exchange for the work performed and these employees performed the work in the transaction and furtherance of Defendants' businesses.

146. Harmful asbestos fibers were released during Defendants' employees' use, handling, breaking, or other manipulation of asbestos-containing products and materials.

147. Once released, the asbestos fibers contaminated the clothes, shoes, skin, hair, and body parts of those exposed, including Plaintiff Melvin G. Welch and his father Willis G. Welch, who also inhaled those fibers, and on the surfaces of work areas, where further activity caused the fibers to once again be released into the air and inhaled by Plaintiff Melvin G. Welch.

148. The asbestos and asbestos-containing materials were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air onto surrounding surfaces, and onto persons in the area. The inhalation of asbestos fibers can cause serious disease and death.

149. Defendants' employees' use, handling and manipulation of asbestos-containing materials, as required by their employment and occurring during the course and scope of their employment, did in fact, cause personal injuries, including mesothelioma and other lung damage, to exposed persons including Plaintiff Melvin G. Welch.

150. Defendants' employees were negligent in their use, handling and manipulation of said products in that they failed to isolate their work with asbestos and/or to suppress asbestos fibers from being released into the air and surrounding areas. They also failed to take appropriate steps to learn how to prevent exposure to asbestos, failed to warn and/or adequately warn Plaintiff and his father Willis G. Welch that he was being exposed to asbestos, failed to adequately warn Plaintiff Melvin G. Welch and his father Willis G. Welch of the harm associated with his exposure to asbestos, and provide him with protection to prevent his inhalation of asbestos.

151. Defendants' employees knew or should have known that failure to take such steps would result in exposure to bystanders including Plaintiff Melvin G. Welch and his father Willis G. Welch.

152. Defendants' employees owed Plaintiff Melvin G. Welch and his father Willis G. Welch a duty to exercise due care and diligence in their activities while he was lawfully on the premises so as not to cause him harm.

153. Defendants' employees breached this duty of care as described above.

154. At all times mentioned, Plaintiff Melvin G. Welch and his father Willis G. Welch were unaware of the dangerous condition and unreasonable risk of personal injury created by Defendants' employees' use of and work with asbestos-containing products and materials.

155. As a direct result of the Defendants' employees conduct, Plaintiff Melvin G. Welch's and his father Willis G. Welch's exposure to asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products, each individually and together, caused severe and permanent injury to Plaintiff Melvin G. Welch and the damages and injuries as complained of herein by Plaintiffs.

156. The risks herein alleged and the resultant damages suffered by the Plaintiff Melvin G. Welch were typical of or broadly incidental to Defendants' business enterprises. As a practical matter, the losses caused by the torts of Defendants' employees as alleged were sure to occur in the conduct of Defendants' business enterprises. Nonetheless, Defendants engaged in, and sought to profit by, their business enterprises without exercising due care as described in this Complaint, which, on the basis of past experience, involved harm to others as shown through the torts of employees.

157. Based on the foregoing, Defendants as the employers of said employees are vicariously liable under the doctrine of respondeat superior for all negligent acts and omissions

committed by their employees in the course and scope of their work that caused harm to Plaintiff Melvin G. Welch.

FOR A FOURTH CAUSE OF ACTION
(Premises Liability: Negligence as to Premises Owner/Contractor)

As a Fourth Distinct Cause of Action for General Negligence, Plaintiffs Complain of Defendants, and Allege as Follows:

158. Plaintiffs incorporate by reference, the preceding paragraphs as if fully set forth herein.

159. Prior to and during all relevant times, the Defendants and/or their “alternate entities” employed workers in areas where Defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff Melvin G. Welch and his father Willis G. Welch worked and/or spent time.

160. At all times herein mentioned, Defendants selected, supplied, and distributed asbestos-containing materials to their employees for use during their regular work activities, and said employees disturbed those asbestos-containing materials.

161. Defendants were negligent in selecting, supplying, distributing and disturbing the asbestos-containing products and in that said products were unsafe. Said products were unsafe because they released asbestos fibers and dust into air when used which would be inhaled by Plaintiff Melvin G. Welch and his father Willis G. Welch and settled onto their clothes, shoes, hands, face, hair, skin, and other body parts thus creating a situation whereby workers and bystanders including Plaintiff Melvin G. Welch would be exposed to dangerous asbestos dust beyond the present.

162. The asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products described herein were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air, and the

inhalation of asbestos fibers causes serious disease and death. Here, the handling of the above-described asbestos-containing materials by Defendants' employees, as required by their employment and occurring during the course and scope of their employment, did, in fact, cause personal injuries, including mesothelioma, lung cancer and other lung damage, to exposed persons, including Plaintiffs.

163. At all times herein mentioned, Defendants knew or should have known that its employees and bystanders thereto, including Plaintiff Melvin G. Welch and his father Willis G. Welch, frequently encountered asbestos-containing products and materials during the course and scope of their work activities.

164. At all times herein mentioned, Defendants knew or should have known that the asbestos-containing materials encountered by its employees and bystanders thereto including Plaintiff Melvin G. Welch and his father Willis G. Welch, were unsafe in that harmful asbestos fibers were released during the use, handling, breaking, or other manipulation of asbestos-containing products and materials, and that once released, asbestos fibers can be inhaled, and can alight on the clothes, shoes, skin, hair, and body parts of those exposed, where further activity causes the fibers to once again be released into the air where they can be inhaled, all of which causes serious disease and/or death.

165. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that absent adequate training and supervision, their employees and bystanders thereto including Plaintiff Melvin G. Welch and his father Willis G. Welch were neither qualified nor able to identify asbestos-containing products nor to identify the hazardous nature of their work activities involving asbestos-containing products.

166. At all times herein mentioned, Plaintiff Melvin G. Welch and his father Willis G. Welch were unaware of the dangerous condition and unreasonable risk of personal injury created by the presence and use of asbestos-containing products and materials.

167. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that workers and bystanders thereto, would bring dangerous dust home from the workplace and contaminate their family cars and homes, continuously exposing and potentially causing injury to others off the premises.

168. At all times herein mentioned, Defendants had a duty to use due care in the selection, supply, distribution and disturbance of asbestos-containing products and materials to its employees, to adequately instruct, train, and supervise their employees and to implement adequate safety policies and procedures to protect workers and persons encountering those workers, including Plaintiff Melvin G. Welch, from suffering injury or death as a result of the asbestos hazards encountered and created by the work of Defendants' employees.

169. Defendants' duties as alleged herein exist and existed independently of Defendants' duties to maintain their premises in reasonably safe condition, free from concealed hazards.

170. Defendants negligently selected, supplied, and distributed the asbestos-containing materials and failed to adequately train or supervise their employees to identify asbestos-containing products and materials; to ensure the safe handling of asbestos-containing products and materials encountered during the course of their work activities; and to guard against inhalation of asbestos fibers and against the inhalation of asbestos fibers by those who would come into close contact with them after they had used, disturbed, or handled, said asbestos-containing products and materials during the course and scope of their employment by Defendants.

171. Defendants failed to warn their employees and bystanders thereto, including Plaintiff Melvin G. Welch and his father Willis G. Welch, of the known hazards associated with asbestos and the asbestos-containing materials they were using and/or disturbing.

172. As a direct and proximate result of the conduct of Defendants in selecting, supplying, distributing and disturbing asbestos-containing materials or products manufactured for foreseeable use with asbestos products and failing to adequately train and supervise their employees and failing to adopt and implement adequate safety policies and procedures as alleged herein, Plaintiff Melvin G. Welch became exposed to and inhaled asbestos fibers, which was a substantial factor in causing Plaintiff Melvin G. Welch to develop asbestos-related disease mesothelioma, and to suffer all damages attendant thereto.

FOR A FIFTH CAUSE OF ACTION
(Negligence Per Se)

As a Fifth Distinct Cause of Action for Negligence Per Se, Plaintiffs Complain of Defendants, and Allege as Follows:

173. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

174. The actions of Defendants also constituted negligence per se.

175. Defendants violated federal and state regulations relating to asbestos exposure. Such violations constitute negligence per se or negligence as a matter of law. Further, each such violation resulted in dangerous and unlawful exposures to asbestos for Plaintiff Melvin G. Welch. Plaintiffs are not making any claims under federal law; instead, Plaintiffs are simply using the violation of federal standards as proof of liability on their state-law theories. Further, the reference to Federal regulations does not create a federal question. *See Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804 (1986). Any removal on this basis will be met with an immediate motion for remand and for sanctions.

176. The negligence per se of Defendants was a proximate cause of Plaintiffs' injuries.

FOR A SIXTH CAUSE OF ACTION
(Negligence as to Design Defendants)

As a Sixth Distinct Cause of Action for Negligence, Plaintiffs Complain of Design Defendants and Allege as Follows:

177. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

178. The work performed by the Design Defendants was defective in all, but not limited to, the following particulars:

- (a) In failing and neglecting to properly inspect the building for defects in the construction, design, and defects in the asbestos-containing products, materials and/or equipment.
- (b) In failing and neglecting to properly train employees in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (c) In failing and neglecting to properly supervise employees, contractors, subcontractors, and/or suppliers in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (d) In failing and neglecting to employ careful contractors and/or employees.
- (e) In failing and neglecting to properly install asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (f) In failing to properly install the asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (g) In failing to properly warn Plaintiff Melvin G. Welch and his father Willis G. Welch of dangers and risks associated with the conditions of the material and work product which was being installed for use by Plaintiff and others in his vicinity.
- (h) By such other failures as will be proved at trial.

All of which is contrary to one or more of workmanlike practice; the plans, specifications, and other contract documents; manufacturers' recommendations and instructions; trade custom and usage; and applicable building codes.

179. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiffs suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR A SEVENTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

As a Seventh Distinct Cause of Action for Negligent Design Services, Plaintiffs Complain of Design Defendants and Allege as Follows:

180. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

181. Design Defendants owed Plaintiff Melvin G. Welch and his father Willis G. Welch a duty to perform professional design services, including construction administration, in accordance with professional standards obtained in South Carolina for the delivery and performance of such services.

182. Design Defendants breached such professional standards in all, but not limited to, the following particulars:

- (a) In failing and neglecting to take reasonable care in the design of said building.
- (b) In failing and neglecting to properly design said building, to issue proper construction, to prevent continuous and substantial exposure to asbestos and/or asbestos-containing products.
- (c) In failing and neglecting to properly supervise the construction of said building.

- (d) In failing and neglecting to properly and reasonably design said building to eliminate exposure to asbestos and/or asbestos-containing products, including but not limited to asbestos-containing insulation.
- (e) In negligently specifying the use of inappropriate, improper and/or defective and deficient building systems, materials, and components, including but not limited to asbestos-containing insulation.
- (f) By such other failures as will be proved at trial.

183. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiffs have suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR AN EIGHTH CAUSE OF ACTION

(Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314)

As an Eighth Distinct Cause Of Action for Breach of Implied Warranties, Plaintiffs Complain of Defendants and Allege as Follows:

184. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

185. Each of the Defendants and/or their “alternate entities” impliedly warranted that their asbestos materials or asbestos-containing products were of good and merchantable quality and fit for their intended use.

186. The implied warranty made by the Defendants, and/or their alter egos, and/or their “alternate entities” that the asbestos and asbestos-containing products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Plaintiff Melvin G. Welch and his father Willis G. Welch carried out their duties and was as a result inhaled by Plaintiff Melvin G. Welch.

187. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to Defendants' asbestos, asbestos-containing products, and/or products manufactured for foreseeable use with asbestos products and consequently developed mesothelioma, causing Plaintiffs to suffer all damages attendant thereto.

FOR A NINTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

For a Ninth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendants, and Allege as Follows:

188. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

189. That during, before and after Plaintiff Melvin G. Welch's exposure to asbestos products manufactured by Defendants and/or their "alternate entities", the Defendants and/or their "alternate entities" falsely represented facts, including the dangers of asbestos exposure to Plaintiff Melvin G. Welch and his father Willis G. Welch in the particulars alleged in the paragraphs above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiff Melvin G. Welch. At the same time of these misrepresentations, Defendants each knew of the falsity of their representations and/or made the representations in reckless disregard of their truth or falsity.

190. The foregoing representations were material conditions precedent to Plaintiff Melvin G. Welch's continued exposure to asbestos-containing products. Defendants and/or their "alternate entities" each intended that Plaintiff Melvin G. Welch and his father Willis G. Welch act upon the representations by continuing his work around, and thereby exposure to, the asbestos products. Plaintiff Melvin G. Welch and his father Willis G. Welch were ignorant of the falsity of Defendants' representations and rightfully relied upon the representations.

191. As a direct and proximate result Plaintiff Melvin G. Welch's and his father Willis G. Welch's reliance upon Defendants' false representations, Plaintiffs have injury and damages as described herein.

FOR A TENTH CAUSE OF ACTION

(Conspiracy, Concert of Action – Defendant Metropolitan Life Insurance Company)

For a Tenth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendant Metropolitan Life Insurance Company, and Allege as Follows:

192. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

193. Beginning in the late 1920's, conspirators including Defendant Metropolitan Life Insurance Company ("Met Life"), as well as Johns-Manville, Raybestos-Manhattan and others, undertook a duty to conduct research on asbestos-related health problems and to inform the public about any health risks that could be associated therewith. In or about 1929, Met Life, through its agents and employees acting within the scope of their agency and employment, including but not limited to Dr. Anthony J. Lanza ("Lanza"), began an investigation of asbestos-related health hazards. In 1935, this study was altered by Lanza, with the full knowledge of Met Life, at the request of and in concert with the asbestos industry in order to wrongly influence the United States Public Health Service, the United States medical community and various state legislatures.

194. Thereafter, Defendant Met Life through the acts and omissions of its employees, most notably Lanza, undertook a series of activities with various members of the asbestos industry including but not limited to Johns-Manville, Raybestos-Manhattan/Raymark Industries, Inc., United States Gypsum, American Brake Blok/Abex, and others to suppress and misrepresent the dangers of exposure to asbestos dust to employees of Met Life's insureds and the general public and the medical community.

195. The conspirators through their agent, Lanza of Met Life, made a concerted effort to discredit and to terminate the experiments of certain scientists who were developing data of

profound importance for the area of public health in relation to the cancer hazard which existed for workers and bystanders in the asbestos industry.

196. As a direct and proximate result of Met Life's intentional publication of deceptive and misleading medical data and information, and other conspiratorial acts and omissions, Defendant caused asbestos to be used in the occupational settings from which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to and breathed asbestos dust which resulted in Plaintiff Melvin G. Welch's injuries. Defendant Met Life, through its agents and employees and officers, aided and abetted and gave substantial assistance to Johns-Manville and Raybestos-Manhattan in their tortious selling of asbestos products and voluntarily undertook a duty to warn the United States Public Health Service, the medical community, and others about the danger of asbestos and consciously and negligently misrepresented the dangers of asbestos to the United States Public Health Service, the medical community, and others, all to the ultimate harm of Plaintiffs herein.

197. Defendant Met Life rendered substantial aid and assistance to the manufacturers of asbestos-containing products to which Plaintiff Melvin G. Welch was exposed, and such assistance by Met Life aided and abetted the negligence and the marketing of unreasonably dangerous asbestos-containing products by such manufacturers which proximately caused Plaintiff Melvin G. Welch's illness.

198. In both conducting tests and in publishing their alleged results, Met Life failed to exercise reasonable care to conduct or publish complete, adequate and accurate tests of the health effects of asbestos. Met Life also caused to be published intentionally false, misleading, inaccurate and deceptive information about the health effects of asbestos exposure.

199. Plaintiff Melvin G. Welch unwittingly and justifiably relied upon the thoroughness of Met Life's tests and information dissemination, the results of which Met Life published in leading medical journals.

200. As a direct and proximate contributing result of Met Life's failures to conduct or accurately publish adequate tests or disseminate accurate and truthful information, after undertaking to do so; (i) the risk of harm to Plaintiff Melvin G. Welch from asbestos exposure was increased, and (ii) Plaintiffs suffered the injuries described herein.

201. In failing to test fully and adequately for the adverse health effects from exposure to asbestos; in delaying the publication of such results; and in falsely editing such results as were obtained; in suppressing relevant medical inquiry and knowledge about those hazards to promote the sale and distribution of asbestos as a harmless product; and in collaborating with the other Defendants materially to understate the hazards of asbestos exposure, all for its own profit and gain, Met Life acted recklessly, wantonly, and in calculated disregard for the welfare of the general public, including Plaintiff.

202. Additionally and alternatively, as a direct and proximate result of Met Life's actions and omissions, Plaintiff and his father Willis G. Welch were caused to remain ignorant of all the dangers of asbestos resulting in Plaintiff Melvin G. Welch, his father Willis G. Welch, their co-workers, their wives and families, and the general public to be unaware of the true and full dangers of asbestos, depriving Plaintiff Melvin G. Welch and his father Willis G. Welch of the opportunity to decide for themselves whether they wanted to take the risk of being exposed to asbestos, denied Plaintiff Melvin G. Welch and his father Willis G. Welch the opportunity to take precautions against the dangers of asbestos and proximately caused Plaintiff's damages herein.

203. During the relevant time period the Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to and did inhale and/or ingest asbestos dust, fibers, and particles, which

dust, fibers, and particles came from the asbestos or asbestos-containing products which were mined, milled, manufactured, fabricated, supplied, and/or sold by the Johns Manville and/or Raybestos/Raymark.

204. Defendant, Met Life, together with Manville, Raymark and other persons and entities, known and unknown at times relevant hereto, engages in a conspiracy or concert of action to inflict injury on the Plaintiff Melvin G. Welch, and to withhold, alter, suppress and misrepresent information about the health effects of asbestos exposure. One or more of said conspirators did cause tortious injury to the Plaintiff Melvin G. Welch or his wife in the course of or as a consequence of the conspiracy or concert of action. At least the following enumerated acts were undertaken by the conspirators in the course of and in furtherance of the conspiracy or concert of action:

- (a) In 1932, Met Life, through Lanza and others, assisted Manville with medical examinations of over 1,000 employees of Manville's factory in Manville, New Jersey. The report of this study shows that a large percentage of the employees suffered from asbestosis including employees not directly involved in the manufacturing process. This 1932 medical survey was not published in the medical literature and, therefore, was unavailable to scientists studying the issue of asbestos-related disease. Further collaboration between Manville and Met Life continued the cover-up.
- (b) Beginning in approximately 1934, Manville, through its agents, Vandiver Brown and Attorney J.C. Hobart, suggested to Lanza, Associate Director of Met Life, which was then insurer of Manville and Raymark, that Lanza publish a study on asbestosis in which Lanza would affirmatively misrepresent material facts about the health consequences of asbestos exposure. This was accomplished through intentional deletion of Lanza's description of asbestosis as 'fatal' and through other selective editing that affirmatively misrepresent asbestosis as a disease process less serious than it actually is and was known to be. As a result, Lanza's study was published in the medical literature in this misleading fashion in 1935. The conspirators were motivated, in part, to effectuate this fraudulent misrepresentation and fraudulent nondisclosure by the desire to influence proposed legislation to regulate asbestos exposure and to provide a defense in lawsuits involving Manville, Raymark, and Met Life as insurer. Furthermore, upon information and belief, it is alleged that Met Life, at all times relevant

hereto, had substantial monetary investments in Manville and Raymark, among other asbestos product manufacturers and distributors.

- (c) In 1936, the conspirators or some of them entered into an agreement with the Saranac Laboratories. Under this agreement, these conspirators acquired the power to decide what information Saranac could publish about asbestos disease and to control in what form such publications would occur. This agreement gave these conspirators power to affirmatively misrepresent the results of the work at Saranac, and also gave these conspirators power to material facts included in any study. On numerous occasions thereafter, the conspirators exercised their power to prevent Saranac scientists from disclosing material scientific data, resulting in numerous misstatements of fact being made at scientific meetings.
- (d) By November 1948, or earlier, Manville, Met Life (acting through Lanza), Raymark, and others decided to exert their influence to materially alter and misrepresent material facts about the substance of research started by Dr. Leroy Gardner at the Saranac Laboratories beginning in 1936. Dr. Gardner's research involved carcinogenicity of asbestos in mice and also included an evaluation of the health effects of asbestos on humans with a critical review of the then-existing standards of dust exposure for asbestos and asbestos products.
- (e) At a meeting on November 11, 1948, these conspirators and others intentionally and affirmatively determined that Dr. Gardner's work should be edited to specifically delete material facts about the cancer-causing propensities of asbestos and the health effects of asbestos on humans and they determined that only an edited version would be published. These conspirators thereby fraudulently misrepresented the risks of asbestos exposure to the public, in general, and to the class of persons exposed to asbestos, including the Plaintiff.
- (f) As a direct result of influence exerted by the above described conspirators, Dr. Arthur Vorwald published Dr. Gardner's edited work in the Journal of Industrial Hygiene, AMA Archives of Industrial Hygiene and Occupational Health in 1951 in a form that stressed those portions of Dr. Gardner's work that the conspirators wished stressed, but which omitted references to human asbestosis and cancer, thereby fraudulently and affirmatively misrepresenting the extent of the risks. The conspirators affirmatively and deliberately disseminated this misleading Vorwald publication to universities, libraries, government officials, agencies and others.
- (g) Such action constituted a material affirmative misrepresentation of the material facts involved in Dr. Gardner's work and resulted in creating an appearance that inhalation of asbestos was a less serious health concern than Dr. Gardner's unedited work indicated.

- (h) For many decades, Met Life, individually, jointly and in conspiracy with Manville and Raymark, have been in possession of medical and scientific data, literature, and test reports which clearly indicated that the inhalation of asbestos dust and fibers resulting from the ordinary foreseeable use of said asbestos-containing products and/or machinery requiring or calling for the use of asbestos or asbestos-containing products were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly.
- (i) Despite the medical and scientific data, literature and test reports possessed by and available to Met Life, individually and in conspiracy with Manville and Raymark, Fraudulently, willfully and maliciously withheld, concealed and suppressed said medical and scientific data, literature and test reports regarding the risks of asbestosis, cancer, mesothelioma, and other illnesses and diseases from Plaintiff who using and being exposed to Manville or Raymark asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products; caused to be released, published and disseminated medical and scientific data, literature and test reports containing information and statements regarding the risks of asbestosis, cancer, mesothelioma and other illnesses and diseases, which Metropolitan, Manville and Raymark knew were either incorrect, incomplete, outdated and misleading; distorted the results of medical examinations conducted upon workers who were using asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products and being exposed to the inhalation of asbestos dust and fibers by falsely stating and/or concealing the nature and extent of the harm which workers suffered; and failed to adequately warn the Plaintiff of the dangers to which he was exposed when they knew of the dangers.
- (j) By the false and fraudulent representations, omissions, failures, and concealments set forth above, Met Life, Manville and Raymark, individually, jointly, and in conspiracy with each other, intended to induce the Plaintiff to rely upon said false and fraudulent representations, omissions, failures, and concealments, to continue to expose themselves to the dangers inherent in the use of and exposure to their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products. Said misrepresentations were false, incomplete, and misleading and constitute negligent misrepresentations as defined by Sections 311 and 522 of the Restatement (Second) of Torts.

205. Plaintiff Melvin G. Welch and his father Willis G. Welch reasonably and in good faith relied upon the false and fraudulent representations, omissions, failures, and concealments made by Met Life, Manville, and Raymark regarding the nature of their asbestos-containing

products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products.

206. As a direct and proximate result of the conspiracy and concert of action between Met Life, Manville and Raymark, the Plaintiff Melvin G. Welch and his father Willis G. Welch have been deprived of the opportunity of informed free choice and connection with the use of and exposure to Manville and Raymark's asbestos and asbestos-containing products, and therefore continued to work with and be exposed to the co-conspirator corporation's asbestos and asbestos-containing products and as a result brought home on his clothes, hair, shoes, and in his case asbestos dust or fibers contracted asbestos-related diseases and other conditions, and/or aggravated pre-existing conditions, as a result of which the Plaintiffs have been damaged.

FOR AN ELEVENTH CAUSE OF ACTION
(Loss of Consortium)

For an Eleventh Distinct Cause of Action for Loss of Consortium, Plaintiff Donna B. Welch Complains of Defendants, and Alleges as Follows:

207. Plaintiff incorporates by reference, the preceding paragraphs, where relevant.

208. Plaintiffs Melvin G. Welch and Donna B. Welch were married November 26, 1972 and at all times relevant to this action were husband and wife.

209. Prior to his injuries as alleged, Plaintiff Melvin G. Welch was able and did perform his spousal duties. As a proximate result thereof, subsequent to the injuries, Plaintiff Melvin G. Welch has been unable to perform his spousal duties and the work and service usually performed in the care, maintenance and management of the family home. As a proximate result thereof, Plaintiff Donna B. Welch was deprived of the consortium of her spouse, including the performance of duties, all to Plaintiffs' damages, in an amount presently unknown to Plaintiffs but which will be proven at time of trial.

210. As a direct and proximate result of the acts of Defendants and/or their “alternate entities” and the severe injuries caused to Plaintiff Melvin G. Welch as set forth herein, Plaintiff’s spouse and co-Plaintiff Donna B. Welch suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, society, comfort, companionship, love and affection of her spouse, and has suffered severe mental and emotional distress and general nervousness. Plaintiffs pray judgment against Defendants, their “alternate entities” and each of them, as hereinafter set forth.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or their “alternate entities” in an amount to be proved at trial, as follows:

1. For Plaintiffs’ actual damages according to proof, including pain and suffering, mental distress, as well as medical, surgical and hospital bills;
2. For loss of income or earnings according to proof;
3. For loss of care, comfort and society;
4. For punitive damages according to proof;
5. For Plaintiffs’ cost of suit herein;
6. For damages for breach of implied warranty according to proof;
7. For damages for fraudulent misrepresentation according to proof;
8. For damages for conspiracy, concert of action (as to Defendant Metropolitan Life Insurance Company); and
9. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,

s/ Theile B. McVey

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ATTORNEYS FOR PLAINTIFFS

October 12, 2022

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

MELVIN G. WELCH and
DONNA B. WELCH

Plaintiffs,

v.

3M COMPANY
f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY

ACCEL PERFORMANCE GROUP LLC
f/k/a PRESTOLITE PERFORMANCE LLC,
successor to HAYES PERFORMANCE
BRAKES

ADVANCE AUTO PARTS, INC.

AMERICAN HONDA MOTOR CO., INC.

ATLAS ASBESTOS CO

ATLAS TURNER, INC.
as successor to ATLAS ASBESTOS CO, a
foreign company

AUTOZONE, INC.

BAHNSON, INC.

BEATY INVESTMENTS, INC.
f/k/a GUY M. BEATY & CO.

BELDEN INC.
d/b/a BELDEN 2010 INC.

BELDEN WIRE & CABLE COMPANY

BRIDGESTONE AMERICAS TIRE
OPERATIONS, LLC
f/k/a BRIDGESTONE FIRESTONE NORTH
AMERICAN TIRE, LLC

C/A NO. 2022-CP-40-03834

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket
Living Mesothelioma

SECOND AMENDED COMPLAINT

(Jury Trial Demanded)

EXHIBIT

3.3

CAROLINA TOOL COMPANY)
)
COPELAND CORPORATION LLC)
)
COVIL CORPORATION)
)
DANIEL INTERNATIONAL)
CORPORATION)
)
DAVIS MECHANICAL CONTRACTORS,)
INC.)
)
DCO LLC)
 individually and as successor-in-interest to)
VICTOR GASKET MANUFACTURING)
COMPANY, successor-in-interest to Reinz)
 Wisconsin Gasket, LLC, a dissolved Delaware)
 limited liability company and as alter-ego of)
 Reinz Wisconsin Gasket LLC, a dissolved)
 Delaware limited liability company)
)
EATON CORPORATION)
)
ELLINGTON INSULATION COMPANY,)
INC.)
)
ENSTAR HOLDINGS (US), LLC)
 f/k/a ENSTAR HOLDINGS (US), INC.)
 individually and as successor-in-interest to)
 Reinz Wisconsin Gasket, LLC a dissolved)
 Delaware limited liability company and as alter-)
 ego of Reinz Wisconsin Gasket, LLC, a)
 dissolved Delaware limited liability company)
)
FISHER CONTROLS INTERNATIONAL)
LLC)
)
FLUOR CONSTRUCTORS)
INTERNATIONAL)
 f/k/a FLUOR CORPORATION)
)
FLUOR CONSTRUCTORS)
INTERNATIONAL, INC.)
)
FLUOR DANIEL SERVICES)
CORPORATION)

FLUOR ENTERPRISES, INC.

FORD MOTOR COMPANY

GENERAL ELECTRIC COMPANY

GENERAL PARTS, INC.

individually and as successor-in-interest to
CARQUEST CORPORATION

GENUINE PARTS COMPANY

d/b/a NAPA

GOODRICH CORPORATION

f/k/a THE B. F. GOODRICH COMPANY

**THE GOODYEAR TIRE & RUBBER
COMPANY**

GRAYBAR ELECTRIC COMPANY, INC.

**HEAT & FROST INSULATION
COMPANY, INC.**

HENNESSY INDUSTRIES, LLC

f/k/a HENNESSY INDUSTRIES, INC.

HONEYWELL INTERNATIONAL, INC.

individually and as successor-in-interest to
ALLIED SIGNAL, INC., as successor to
BENDIX CORPORATION

**INDUSTRIAL HOLDINGS
CORPORATION**

f/k/a THE CARBORUNDUM COMPANY

JOHNSON CONTROLS, INC.

MERITOR, INC.

f/k/a ARVINMERITOR, INC., successor-in-
interest to the former automotive products
segment of ROCKWELL INTERNATIONAL
CORPORATION

METROPOLITAN LIFE INSURANCE

COMPANY)
a wholly owned subsidiary of METLIFE INC.)
))
MORSE TEC LLC)
f/k/a BORGWARNER MORSE TEC LLC, and)
successor-by-merger to BORG-WARNER)
CORPORATION)
))
MW CUSTOM PAPERS, LLC)
individually and as successor-in-interest to)
MEADWESTVACO)
))
OCCIDENTAL CHEMICAL)
CORPORATION)
as successor to DUREZ CORPORATION)
))
O'REILLY AUTO ENTERPRISES, LLC)
individually and as successor-in-interest, parent,)
alter ego and equitable trustee of KRAGEN)
AUTO PARTS, GRAND AUTO SUPPLY,)
O'REILLY AUTO PARTS and CSK AUTO,)
INC.)
))
O'REILLY AUTOMOTIVE STORES, INC.)
))
PARAMOUNT GLOBAL)
f/k/a VIACOMCBS INC., f/k/a CBS)
CORPORATION, a Delaware corporation f/k/a)
VIACOM, INC., successor-by-merger to CBS)
CORPORATION, a Pennsylvania corporation,)
f/k/a WESTINGHOUSE ELECTRIC)
CORPORATION)
))
PFIZER, INC.)
))
PHARMACIA LLC)
f/k/a PHARMACIA CORPORATION f/k/a)
MONSANTO COMPANY)
))
PIEDMONT INSULATION, INC.)
))
PNEUMO ABEX LLC)
successor-in-interest to ABEX CORPORATION)
))
REDCO CORPORATION)
f/k/a CRANE CO.)

REINZ WISCONSIN GASKET LLC)
 f/k/a and/or successor to REINZ WISCONSIN)
 GASKET CO. and WISCONSIN GASKET)
 MANUFACTURING CO., a wholly owned)
 subsidiary of DCO LLC)
)
RILEY POWER INC.)
 f/k/a BABCOCK BORSIG POWER INC.,)
 f/k/a DB RILEY, INC., f/k/a RILEY STOKER)
 CORPORATION)
)
ROCKWELL AUTOMATION INC.)
 individually and as successor-in-interest to)
 ALLEN-BRADLEY COMPANY LLC, f/k/a)
 ROCKWELL INTERNATIONAL)
 CORPORATION)
)
RUST ENGINEERING &)
CONSTRUCTION, INC.)
)
RUST INTERNATIONAL INC.)
)
SAINT-GOBAIN ABRASIVES, INC.)
 f/k/a NORTON COMPANY)
)
SCHNEIDER ELECTRIC USA, INC.)
 f/k/a SQUARE D COMPANY)
)
SOUTHERN INSULATION, INC.)
)
SPIRAX SARCO, INC.)
)
UNION CARBIDE CORPORATION)
)
VISTRA INTERMEDIATE COMPANY)
LLC)
 individually and as successor-in-interest to)
 CRSS INC.)
)
WESTROCK MWV, LLC)
 individually and as successor-in-interest to)
 WESTVACO)
)
WIND UP, LTD.)
 individually and as successor-in-interest to)
 PIPE & BOILER INSULATION, INC.)

f/k/a CAROLINA INDUSTRIAL	)
INSULATING CO.	)
	)
ZF ACTIVE SAFETY US INC.	)
f/k/a KELSEY-HAYES COMPANY	)
	)
Defendants.	)
_____	)
	)
	)
	)

PLAINTIFFS' SECOND AMENDED COMPLAINT

Plaintiffs, MELVIN G. WELCH and DONNA B. WELCH (hereinafter "Plaintiffs"), sue the named Defendants for compensatory and punitive damages, by and through their attorneys, and come before this court and allege as follows:

GENERAL ALLEGATIONS

1. Plaintiff Melvin G. Welch has been diagnosed with mesothelioma caused by exposure to asbestos dust and fibers. This exposure occurred as a result of his father Willis G. Welch's work with and around asbestos-containing products, which caused asbestos containing dust to cover his father's clothing, vehicle, and body which he brought home to Plaintiff Melvin G. Welch, who was then exposed to said asbestos dust and fibers. Plaintiff's exposure also occurred as a result of his own work with and around asbestos-containing products.

2. This Court has personal jurisdiction over Defendants because Plaintiffs' claims arise from Defendants' conduct in:

- (a) Transacting business in this State, including the sale, supply, purchase, and/or use of asbestos and/or asbestos-containing products, within this State;
- (b) Contracting to supply services or things in the State;
- (c) Commission of a tortious act in whole or in part in this State;

- (d) Having an interest in, using, or possessing real property in this State; and/or
- (e) Entering into a contract to be performed in whole or in part by either party in this State.

1. Each Defendant, or its predecessors in interest, that manufactured, sold, and/or distributed asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action are referred to herein as “Product Defendants.” At all times relevant to this action, the Product Defendants and the predecessors of the Product Defendants for whose actions the Product Defendants are legally responsible, were engaged in the manufacture, sale and distribution of asbestos-containing products and raw materials.

2. Each Defendant, or its predecessors in interest, that owned and/or controlled the work sites where Plaintiff Melvin G. Welch and his father, Willis G. Welch, experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment in their immediate vicinity are referred to herein as the “Premises Defendants.” At all times relevant to this action:

- (a) the Premises Defendants owned the property and approved the use of asbestos-containing materials on its premises.
- (b) the Premises Defendants invited Plaintiff Melvin G. Welch, as an instrumentation specialist helper and his father, Willis G. Welch, as a welder, on to Defendant’s premises to perform construction work for Defendant’s benefit. Plaintiff and his father were invitees who had express permission to enter Defendant’s premises for the purpose of benefitting the owner (Defendant).
- (c) the Premises Defendants owed a duty of due care to discover risks and take safety precautions to warn of and eliminate unreasonable risks.
- (d) the Premises Defendants’ failure to warn of or eliminate the unreasonable risks associated with working on or around asbestos-containing materials on Defendants’ premises was a substantial factor contributing to cause Plaintiff Melvin G. Welch’s mesothelioma.

1. Each Defendant, or its predecessors in interest, that provided labor, materials, goods, and/or services as architects, consultants, engineers, draftsmen, technicians, surveyors, or otherwise in connection with the design and/or repairs at the work sites where Plaintiff Melvin G. Welch and his father Willis G. Welch experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment, are referred to herein as the “Design Defendants.”

2. Plaintiffs’ claims against the Product Defendants, as defined herein, arise out of Defendants’ purposeful efforts to serve directly or indirectly the market for their asbestos and/or asbestos-containing products in this State, either through direct sales or through utilizing an established distribution channel with the expectation that their products would be purchased and/or used within South Carolina.

3. Plaintiffs’ claims against the Premises Defendants, as defined herein, arise out of Defendants’ ownership and/or control of real property located in South Carolina and the purchase and use of asbestos-containing products on their premises located in South Carolina, with which Plaintiff’s father Willis G. Welch, worked, and as a result were exposed to asbestos.

4. Plaintiffs’ claims against the Design Defendants, as defined herein, arise out of Defendants’, and/or Defendants’ employees’, direct and/or indirect purchase and use of asbestos and/or asbestos-containing products, materials, or equipment at the various industrial sites located in South Carolina where Plaintiff Melvin G. Welch experienced occupational exposure to lethal doses of asbestos as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment.

5. All of the named Defendants are corporations who purposefully availed themselves of the privilege of doing business in this State, and whose substantial and/or

systematic business in South Carolina exposed Plaintiff Melvin G. Welch to asbestos in this State, subjecting them to the jurisdiction of the South Carolina courts pursuant to the South Carolina Long-Arm Statute and the United States Constitution.

6. In addition to being exposed through his own work, Plaintiff Melvin G. Welch was exposed to asbestos through asbestos dust and fibers brought home on his father's work clothes, from asbestos dust in his father's vehicle and asbestos dust on his father's body including his hair, and from the dust being distributed and re-entrained in their home. His exposure to asbestos dust and fibers occurred through his father's work clothing and person when greeting him at the end of his father's workday, through spending time in his vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their family's home.

7. Plaintiff Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

8. Neither Plaintiffs, nor Plaintiff's father Willis G. Welch, were aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

9. Both Plaintiff Melvin G. Welch and his father Willis G. Welch worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured and/or sold by the Product Defendants and used on property owned and controlled by the

Premises Defendants. Plaintiff's father Willis G. Welch brought asbestos home with him on his person and clothing, which caused Plaintiff Melvin G. Welch to be exposed to asbestos.

10. Each of the named Defendants is liable for damages stemming from its own tortious conduct or the tortious conduct of an "alternate entity" as hereinafter defined. Defendants are liable for the acts of their "alternate entity" and each of them, in that there has been a corporate name change, Defendant is the successor by merger, by successor in interest, or by other acquisition resulting in a virtual destruction of Plaintiffs' remedy against each such "alternate entity"; Defendants, each of them, have acquired the assets, product line, or a portion thereof, of each such "alternate entity"; such "alternate entities" have acquired the assets, product line, or a portion thereof of each such Defendant; Defendants, and each of them, caused the destruction of Plaintiffs' remedy against each such "alternate entity"; each such Defendant has the ability to assume the risk-spreading role of each such "alternate entity;" and that each such defendant enjoys the goodwill originally attached to each "alternate entity."

DEFENDANT	ALTERNATE ENTITY
3M COMPANY	MINNESOTA MINING AND MANUFACTURING COMPANY
ACCEL PERFORMANCE GROUP LLC	PRESTOLITE PERFORMANCE LLC and HAYES PERFORMANCE BRAKES
ATLAS TURNER, INC.	ATLAS ASBESTOS CO
BEATY INVESTMENTS, INC.	GUY M. BEATY & CO.
BELDEN INC.	BELDEN 2010 INC.
BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC	BRIDGESTONE FIRESTONE NORTH AMERICAN TIRE, LLC

DCO LLC	VICTOR GASKET MANUFACTURING COMPANY REINZ WISCONSIN GASKET, LLC
ENSTAR HOLDINGS (US), LLC	ENSTAR HOLDINGS (US), INC and REINZ WISCONSIN GASKET, LLC
FLUOR CONSTRUCTORS INTERNATIONAL	FLUOR CORPORATION
GENERAL PARTS, INC.	CARQUEST CORPORATION
GENUINE PARTS COMPANY	NAPA
GOODRICH CORPORATION	THE B. F. GOODRICH COMPANY
HENNESSY INDUSTRIES, LLC	HENNESSY INDUSTRIES, INC.
HONEYWELL INTERNATIONAL, INC.	ALLIED SIGNAL, INC. and BENDIX CORPORATION
INDUSTRIAL HOLDINGS CORPORATION	THE CARBORUNDUM COMPANY
MERITOR, INC.	ARVINMERITOR, INC. and ROCKWELL INTERNATIONAL CORPORATION
METROPOLITAN LIFE INSURANCE COMPANY	METLIFE INC.
MORSE TEC LLC	BORGWARNER MORSE TEC LLC and BORG-WARNER CORPORATION
MW CUSTOM PAPERS, LLC	MEADWESTVACO
OCCIDENTAL CHEMICAL CORPORATION	DUREZ CORPORATION
O'REILLY AUTO ENTERPRISES, LLC	KRAGEN AUTO PARTS, GRAND AUTO SUPPLY, O'REILLY AUTO PARTS, and CSK AUTO, INC.

PARAMOUNT GLOBAL	VIACOMCBS INC., CBS CORPORATION, a Delaware corporation, VIACOM, INC., CBS CORPORATION, a Pennsylvania corporation, and WESTINGHOUSE ELECTRIC CORPORATION
PHARMACIA LLC	PHARMACIA CORPORATION and MONSANTO COMPANY
PNEUMO ABEX, LLC	ABEX CORPORATION
REDCO CORPORATION	CRANE CO.
REINZ WISCONSIN GASKET LLC	REINZ WISCONSIN GASKET CO., WISCONSIN GASKET & MANUFACTURING CO., and DCO LLC
RILEY POWER INC.	BABCOCK BORSIG POWER INC., DB RILEY, INC., and RILEY STOKER CORPORATION
ROCKWELL AUTOMATION INC.	ALLEN-BRADLEY COMPANY LLC and ROCKWELL INTERNATIONAL CORPORATION
SAINT-GOBAIN ABRASIVES, INC.	NORTON COMPANY
SCHNEIDER ELECTRIC USA, INC.	SQUARE D COMPANY
VISTRA INTERMEDIATE COMPANY LLC	CRSS INC.
WESTROCK MWV, LLC	WESTVACO
WIND UP, LTD.	PIPE AND BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO.
ZF ACTIVE SAFETY US INC.	KELSEY-HAYES COMPANY

11. Plaintiffs have been informed and believe, and thereon allege, that at all times herein mentioned, Defendants or their “alternate entities” were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and existing under and by virtue of the laws of the State of South Carolina, or the laws of some other state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

12. Plaintiffs have been informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

13. As a direct and proximate result of the conduct as alleged within, Plaintiff Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

14. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Melvin G. Welch’s medical treatment is ascertained.

15. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred, and will incur, loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs pray leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

16. Plaintiffs hereby disclaim each and every claim or cause of action which does or may arise from any United States armed forces service, or on any federal enclave. This disclaimer is not related solely to actions taken by or at the direction of a federal officer, but is, rather broader. Plaintiffs are not making any claims and are not alleging any causes of action against any entity for any asbestos exposure of any kind which occurred as a result of Plaintiff Melvin G. Welch's United States armed forces service. Moreover, Plaintiffs are further disclaiming each and every claim or cause of action arising from any exposure to asbestos as a result of the Plaintiff's presence on or at any federal enclave. Plaintiffs further disclaim each and every claim or cause of action arising under the United States Constitution and under any Federal Law or Regulation. Finally, Plaintiffs disclaim each and every claim or cause of action which may be asserted under federal admiralty or maritime law. Courts across the Country have found that such disclaimers are proper and within the province of the Plaintiffs to disclaim. Any removal by any defendant on the basis of the disclaimed claims will result in a motion for sanctions and seeking attorneys' fees.

THE PARTIES

17. Plaintiffs Melvin G. Welch and Donna B. Welch are currently residents of the State of South Carolina. Plaintiff Melvin G. Welch was exposed to asbestos as a result of his father Willis G. Welch's career at various job sites, including but not limited to, locations in South Carolina. Plaintiff was exposed to asbestos dust and fibers taken home on his father, from asbestos dust in his father's vehicle, asbestos dust on his father's body including his hair, and from the dust being distributed and re-entrained. Plaintiff Melvin G. Welch was also exposed to asbestos during the course of his own career at various job sites, including but not limited to, locations in multiple states, including but not limited to South Carolina.

18. Defendant, **3M COMPANY**, f/k/a MINNESOTA MINING AND MANUFACTURING COMPANY, was and is a Delaware corporation with its principal place of business in Minnesota. At all times material hereto, 3M COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, or products fraudulently marketed to prevent asbestos exposure including, but not limited to, 3M masks and tape and 3M asbestos-containing products, including but not limited to auto body sealer. 3M COMPANY is sued as a Product Defendant. Plaintiffs' claims against 3M COMPANY arise out of this Defendant's business activities in the State of South Carolina.

19. Defendant, **ACCEL PERFORMANCE GROUP LLC**, f/k/a PRESTOLITE PERFORMANCE LLC, successor to HAYES PERFORMANCE BRAKES, was and is a Delaware limited liability company with its principal place of business in Kentucky. At all times material hereto, ACCEL PERFORMANCE GROUP LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial

amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Hayes performance brakes. ACCEL PERFORMANCE GROUP LLC is sued as a Product Defendant. Plaintiffs' claims against ACCEL PERFORMANCE GROUP LLC arise out of this Defendant's business activities in the State of South Carolina.

20. Defendant, **ADVANCE AUTO PARTS, INC.**, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, ADVANCE AUTO PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, clutches, and gaskets. ADVANCE AUTO PARTS, INC. is sued as a Product Defendant. Plaintiffs' claims against ADVANCE AUTO PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

21. Defendant, **AMERICAN HONDA MOTOR CO., INC.**, was and is a California corporation with its principal place of business in California. At all times material hereto, AMERICAN HONDA MOTOR CO., INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. AMERICAN HONDA MOTOR CO., INC. is sued as a Product Defendant. Plaintiffs' claims against AMERICAN HONDA MOTOR CO., INC. arise out of this Defendant's business activities in the State of South Carolina.

22. Defendant, **ATLAS ASBESTOS CO**, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada.

At all times material hereto, ATLAS ASBESTOS CO mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers. ATLAS ASBESTOS CO is sued as a Product Defendant. Plaintiffs' claims against ATLAS ASBESTOS CO arise out of this Defendant's business activities in the State of South Carolina.

23. Defendant, **ATLAS TURNER, INC.**, as successor to ATLAS ASBESTOS CO, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS TURNER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers. ATLAS TURNER, INC. is sued as a Product Defendant. Plaintiffs' claims against ATLAS TURNER, INC. arise out of this Defendant's business activities in the State of South Carolina.

24. Defendant, **AUTOZONE, INC.**, was and is a Nevada corporation with its principal place of business in Tennessee. At all times material hereto, AUTOZONE, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. AUTOZONE, INC. is sued as a Product Defendant. Plaintiffs' claims against AUTOZONE, INC. arise out of this Defendant's business activities in the State of South Carolina.

25. Defendant, **BAHNSON, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BAHNSON, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. BAHNSON, INC. is sued as a Product Defendant. BAHNSON, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against BAHNSON, INC. arise out of this Defendant's business activities in the State of South Carolina.

26. Defendant, **BEATY INVESTMENTS, INC.**, f/k/a GUY M. BEATY & CO., was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BEATY INVESTMENTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. BEATY INVESTMENTS, INC. is sued as a Product Defendant. BEATY INVESTMENTS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against BEATY INVESTMENTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

27. Defendant, **BELDEN INC.**, d/b/a BELDEN 2010 INC., was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, BELDEN INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing wires, cables, panels, and electrical controls. BELDEN INC. is sued as a Product Defendant. Plaintiffs' claims against BELDEN INC. arise out of this Defendant's business activities in the State of South Carolina.

28. Defendant, **BELDEN WIRE & CABLE COMPANY**, was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, BELDEN WIRE & CABLE COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing wires, cables, panels, and electrical controls. BELDEN WIRE & CABLE COMPANY is sued as a Product Defendant. Plaintiffs' claims against BELDEN WIRE & CABLE COMPANY arise out of this Defendant's business activities in the State of South Carolina.

29. Defendant, **BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC**, f/k/a BRIDGESTONE FIRESTONE NORTH AMERICAN TIRE, LLC, was and is a Delaware limited liability company with its principal place of business in Tennessee. At all times material hereto, BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment,

including, but not limited to, asbestos-containing tires and friction products. BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC is sued as a Product Defendant. Plaintiffs' claims against BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC arise out of this Defendant's business activities in the State of South Carolina.

30. Defendant, **CAROLINA TOOL COMPANY**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, CAROLINA TOOL COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, clutches, and gaskets, and based upon information and belief Carolina Tool Company was and is an authorized NAPA dealer. CAROLINA TOOL COMPANY is sued as a Product Defendant. Plaintiffs' claims against CAROLINA TOOL COMPANY arise out of this Defendant's business activities in the State of South Carolina.

31. Defendant, **COPELAND CORPORATION LLC**, was and is a Delaware limited liability company with its principal place of business in Ohio. At all times material hereto, COPELAND CORPORATION LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Copeland compressors. COPELAND CORPORATION LLC is sued as a Product Defendant. Plaintiffs' claims against COPELAND CORPORATION LLC arise out of this Defendant's business activities in the State of South Carolina.

32. Defendant, **COVIL CORPORATION**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, COVIL

CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. COVIL CORPORATION is sued as a Product Defendant. COVIL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Covil Corporation, exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against COVIL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

33. Defendant, **DANIEL INTERNATIONAL CORPORATION**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, DANIEL INTERNATIONAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DANIEL INTERNATIONAL CORPORATION is sued as a Product Defendant. DANIEL INTERNATIONAL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against DANIEL INTERNATIONAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

34. Defendant, **DAVIS MECHANICAL CONTRACTORS, INC.**, was a South Carolina corporation with its principal place of business in North Carolina. At all times material hereto, DAVIS MECHANICAL CONTRACTORS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DAVIS MECHANICAL CONTRACTORS, INC. is sued as a Product Defendant. DAVIS MECHANICAL CONTRACTORS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Davis Mechanical Contractors, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against DAVIS MECHANICAL CONTRACTORS, INC. arise out of this Defendant's business activities in the State of South Carolina.

35. Defendant, **DCO LLC**, individually and as successor-in-interest to VICTOR GASKET MANUFACTURING COMPANY and alter-ego of REINZ WISCONSIN GASKET, LLC, was and is a Virginia limited liability company with its principal place of business in Tennessee. At all times material hereto, DCO LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Victor gaskets. DCO LLC is sued as a Product Defendant. Plaintiffs' claims against DCO LLC arise out of this Defendant's business activities in the State of South Carolina.

36. Defendant, **EATON CORPORATION**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, EATON CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Spicer brakes, Eaton brakes, and Cutler Hammer electrical products. EATON CORPORATION is sued as a Product Defendant. Plaintiffs' claims against EATON CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

37. Defendant, **ELLINGTON INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, ELLINGTON INSULATION COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. ELLINGTON INSULATION COMPANY, INC. is sued as a Product Defendant. ELLINGTON INSULATION COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Ellington Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against ELLINGTON INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

38. Defendant, **ENSTAR HOLDINGS (US), LLC** f/k/a Enstar Holdings (US), Inc., successor to REINZ WISCONSIN GASKET, LLC, is a Delaware limited liability company. At all times material hereto, ENSTAR HOLDINGS (US), LLC, as the successor-in-interest to Reinz Wisconsin Gasket, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing gaskets. ENSTAR HOLDINGS (US), INC. is sued as a Product Defendant. Plaintiffs' claims against ENSTAR HOLDINGS (US), INC. arise out of this Defendant's business activities in the State of South Carolina.

39. Defendant, **FISHER CONTROLS INTERNATIONAL LLC**, was and is a Delaware limited liability company with its principal place of business in Missouri. At all times material hereto, FISHER CONTROLS INTERNATIONAL LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Fisher valves and controls. FISHER CONTROLS INTERNATIONAL LLC is sued as a Product Defendant. Plaintiffs' claims against FISHER CONTROLS INTERNATIONAL LLC arise out of this Defendant's business activities in the State of South Carolina.

40. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL**, f/k/a/ FLUOR CORPORATION, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing

products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL arise out of this Defendant's business activities in the State of South Carolina.

41. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

42. Defendant, **FLUOR DANIEL SERVICES CORPORATION**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, **FLUOR DANIEL SERVICES CORPORATION** mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. **FLUOR DANIEL SERVICES CORPORATION** is sued as a Product Defendant. **FLUOR DANIEL SERVICES CORPORATION** is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against **FLUOR DANIEL SERVICES CORPORATION** arise out of this Defendant's business activities in the State of South Carolina.

43. Defendant, **FLUOR ENTERPRISES, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, **FLUOR ENTERPRISES, INC.** mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. **FLUOR ENTERPRISES, INC.** is sued as a Product Defendant. **FLUOR ENTERPRISES, INC.** is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of

asbestos. Plaintiffs' claims against FLUOR ENTERPRISES, INC. arise out of this Defendant's business activities in the State of South Carolina.

44. Defendant, **FORD MOTOR COMPANY**, was and is a Delaware corporation with its principal place of business in Michigan. At all times material hereto, FORD MOTOR COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. FORD MOTOR COMPANY is sued as a Product Defendant. Plaintiffs' claims against FORD MOTOR COMPANY arise out of this Defendant's business activities in the State of South Carolina.

45. Defendant, **GENERAL ELECTRIC COMPANY**, was and is a New York corporation with its principal place of business in Massachusetts. At all times material hereto, GENERAL ELECTRIC COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing electric panels and wires. GENERAL ELECTRIC COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENERAL ELECTRIC COMPANY arise out of this Defendant's business activities in the State of South Carolina.

46. Defendant, **GENERAL PARTS, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, GENERAL PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-

containing friction products. GENERAL PARTS, INC. is sued as a Product Defendant. Plaintiffs' claims against GENERAL PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

47. Defendant, **GENUINE PARTS COMPANY**, d/b/a NAPA, was and is a Georgia corporation with its principal place of business in Georgia. At all times material hereto, GENUINE PARTS COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products, and based upon information and belief GENUINE PARTS COMPANY extended authorized dealership privileges to Carolina Tool Company. GENUINE PARTS COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENUINE PARTS COMPANY arise out of this Defendant's business activities in the State of South Carolina.

48. Defendant, **GOODRICH CORPORATION**, f/k/a THE B. F. GOODRICH COMPANY, was and is a New York corporation with its principal place of business in North Carolina. At all times material hereto, GOODRICH CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Goodrich brakes. GOODRICH CORPORATION is sued as a Product Defendant. Plaintiffs' claims against GOODRICH CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

49. Defendant, **THE GOODYEAR TIRE & RUBBER COMPANY**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, THE

GOODYEAR TIRE & RUBBER COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. THE GOODYEAR TIRE & RUBBER COMPANY is sued as a Product Defendant. Plaintiffs' claims against THE GOODYEAR TIRE & RUBBER COMPANY arise out of this Defendant's business activities in the State of South Carolina.

50. Defendant, **GRAYBAR ELECTRIC COMPANY, INC.**, was and is a New York corporation with its principal place of business in Missouri. At all times material hereto, GRAYBAR ELECTRIC COMPANY, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. GRAYBAR ELECTRIC COMPANY, INC. is sued as a Product Defendant. Plaintiffs' claims against GRAYBAR ELECTRIC COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

51. Defendant, **HEAT & FROST INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, HEAT & FROST INSULATION COMPANY, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. HEAT & FROST INSULATION COMPANY, INC. is sued as a Product Defendant. HEAT & FROST

INSULATION COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Heat & Frost Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against HEAT & FROST INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

52. Defendant, **HENNESSY INDUSTRIES, LLC**, f/k/a HENNESSY INDUSTRIES, INC., was and is a Delaware limited liability with its principal place of business in Tennessee. At all times material hereto, HENNESSY INDUSTRIES, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, and/or equipment designed to be used with asbestos-containing products, including, but not limited to, Ammco Arc grinders and brake drum lathe and asbestos-containing grinders. HENNESSY INDUSTRIES, LLC is sued as a Product Defendant. Plaintiffs' claims against HENNESSY INDUSTRIES, LLC arise out of this Defendant's business activities in the State of South Carolina.

53. Defendant, **HONEYWELL INTERNATIONAL, INC.**, individually and as successor-in-interest to ALLIED SIGNAL, INC., as successor to BENDIX CORPORATION, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, HONEYWELL INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products, valves, and

controls. HONEYWELL INTERNATIONAL, INC. is sued as a Product Defendant. Plaintiffs' claims against HONEYWELL INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

54. Defendant, **INDUSTRIAL HOLDINGS CORPORATION**, f/k/a THE CARBORUNDUM COMPANY, was and is a New York corporation with its principal place of business in New York. At all times material hereto, INDUSTRIAL HOLDINGS CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing grinding wheels and Black Magic Diamond. INDUSTRIAL HOLDINGS CORPORATION is sued as a Product Defendant. Plaintiffs' claims against INDUSTRIAL HOLDINGS CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

55. Defendant, **JOHNSON CONTROLS, INC.**, was and is a Wisconsin corporation with its principal place of business in Wisconsin. At all times material hereto, JOHNSON CONTROLS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Johnson valves. JOHNSON CONTROLS, INC. is sued as a Product Defendant. Plaintiffs' claims against JOHNSON CONTROLS, INC. arise out of this Defendant's business activities in the State of South Carolina.

56. Defendant, **MERITOR, INC.**, f/k/a ARVINMERITOR, INC., successor-in-interest to the former automotive products segment of ROCKWELL INTERNATIONAL

CORPORATION, was and is a Nevada corporation with its principal place of business in Michigan. At all times material hereto, MERITOR, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Rockwell brakes. MERITOR, INC. is sued as a Product Defendant. Plaintiffs' claims against MERITOR, INC. arise out of this Defendant's business activities in the State of South Carolina.

57. Defendant, **METROPOLITAN LIFE INSURANCE COMPANY**, a wholly-owned subsidiary of METLIFE INC., was and is a New York corporation with its principal place of business in New York. METROPOLITAN LIFE INSURANCE COMPANY has done and does business in the State of South Carolina. METROPOLITAN LIFE INSURANCE COMPANY is named as a conspiracy defendant.

58. Defendant, **MORSE TEC LLC**, f/k/a BORGWARNER MORSE TEC LLC, and successor-by-merger to BORG-WARNER CORPORATION, was and is a Delaware limited liability with its principal place of business in Michigan. At all times material hereto, MORSE TEC LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, including but not limited to Borg-Beck brakes, and clutches, including but not limited to Borg-Warner clutches and Rockford clutches. MORSE TEC LLC is sued as a Product Defendant. Plaintiffs' claims against MORSE TEC LLC arise out of this Defendant's business activities in the State of South Carolina.

59. Defendant, **MW CUSTOM PAPERS, LLC**, was and is a Delaware limited liability with its principal place of business in Georgia. At all times material hereto, MW CUSTOM PAPERS, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction paper. MW CUSTOM PAPERS, LLC is sued as a Product Defendant. Plaintiffs' claims against MW CUSTOM PAPERS, LLC arise out of this Defendant's business activities in the State of South Carolina.

60. Defendant, **OCCIDENTAL CHEMICAL CORPORATION**, as successor to DUREZ CORPORATION, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, OCCIDENTAL CHEMICAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing raw asbestos fibers. OCCIDENTAL CHEMICAL CORPORATION is sued as a Product Defendant. Plaintiffs' claims against OCCIDENTAL CHEMICAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

61. Defendant, **O'REILLY AUTO ENTERPRISES, LLC**, individually and as successor-in-interest, parent, alter ego and equitable trustee of KRAGEN AUTO PARTS, GRAND AUTO SUPPLY, O'REILLY AUTO PARTS and CSK AUTO, INC., was and is a Delaware limited liability with its principal place of business in Missouri. At all times material hereto, O'REILLY AUTO ENTERPRISES, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial

amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. O'REILLY AUTO ENTERPRISES, LLC is sued as a Product Defendant. Plaintiffs' claims against O'REILLY AUTO ENTERPRISES, LLC arise out of this Defendant's business activities in the State of South Carolina.

62. Defendant, **O'REILLY AUTOMOTIVE STORES, INC.**, was and is a Missouri corporation with its principal place of business in Missouri. At all times material hereto, O'REILLY AUTOMOTIVE STORES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. O'REILLY AUTOMOTIVE STORES, INC. is sued as a Product Defendant. Plaintiffs' claims against O'REILLY AUTOMOTIVE STORES, INC. arise out of this Defendant's business activities in the State of South Carolina.

63. Defendant, **PARAMOUNT GLOBAL**, f/k/a VIACOMCBS INC., f/k/a CBS CORPORATION, a Delaware corporation f/k/a VIACOM, INC., successor-by-merger to CBS CORPORATION, a Pennsylvania corporation, f/k/a WESTINGHOUSE ELECTRIC CORPORATION, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PARAMOUNT GLOBAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Westinghouse control panels and electrical equipment. PARAMOUNT GLOBAL is sued as a Product Defendant. Plaintiffs' claims against PARAMOUNT GLOBAL arise out of this Defendant's business activities in the State of South Carolina.

64. Defendant, **PFIZER, INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PFIZER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing talc. PFIZER, INC. is sued as a Product Defendant. Plaintiffs' claims against PFIZER, INC. arise out of this Defendant's business activities in the State of South Carolina.

65. Defendant, **PHARMACIA LLC**, f/k/a PHARMACIA CORPORATION f/k/a MONSANTO COMPANY, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, PHARMACIA LLC owned and/or controlled premises at which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to asbestos-containing products, equipment, and asbestos dust from said products at various facilities, including but not limited to, the Monsanto chemical plant in Greenwood, South Carolina. PHARMACIA LLC is sued as a Premises Defendant. Plaintiffs' claims against PHARMACIA LLC arise out of this Defendant's business activities in the State of South Carolina.

66. Defendant, **PIEDMONT INSULATION, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, PIEDMONT INSULATION, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. PIEDMONT INSULATION, INC. is sued as

a Product Defendant. PIEDMONT INSULATION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Heat & Frost Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against PIEDMONT INSULATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

67. Defendant, **PNEUMO ABEX, LLC**, individually and as successor-in-interest to ABEX CORPORATION, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, PNEUMO ABEX, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. PNEUMO ABEX, LLC is sued as a Product Defendant. Plaintiffs' claims against PNEUMO ABEX, LLC arise out of this Defendant's business activities in the State of South Carolina.

68. Defendant, **REDCO CORPORATION**, f/k/a CRANE CO., was and is a Delaware corporation with its principal place of business in Connecticut. At all times material hereto, REDCO CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Cranite gaskets, Crane valves, and Crane pumps. REDCO CORPORATION is sued as a Product Defendant. Plaintiffs' claims against REDCO

CORPORATION. Arise out of this Defendant's business activities in the State of South Carolina.

69. Defendant, **REINZ WISCONSIN GASKET LLC**, f/k/a and/or successor to REINZ WISCONSIN GASKET CO. and WISCONSIN GASKET & MANUFACTURING CO., a wholly owned subsidiary of DCO LLC, was and is a Delaware limited liability company with its principal place of business in Wisconsin. At all times material hereto, REINZ WISCONSIN GASKET LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. REINZ WISCONSIN GASKET LLC is sued as a Product Defendant. Plaintiffs' claims against REINZ WISCONSIN GASKET LLC arise out of this Defendant's business activities in the State of South Carolina.

70. Defendant, **RILEY POWER INC.**, f/k/a BABCOCK BORSIG POWER INC., f/k/a DB RILEY, INC., f/k/a RILEY STOKER CORPORATION, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, RILEY POWER INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Riley boilers. RILEY POWER INC. is sued as a Product Defendant. Plaintiffs' claims against RILEY POWER INC. arise out of this Defendant's business activities in the State of South Carolina.

71. Defendant, **ROCKWELL AUTOMATION INC.**, individually and as successor-in-interest ALLEN-BRADLEY COMPANY LLC, f/k/a ROCKWELL INTERNATIONAL

CORPORATION, was and is a Delaware corporation with its principal place of business in Wisconsin. At all times material hereto, ROCKWELL AUTOMATION INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Allen-Bradley electrical panels. ROCKWELL AUTOMATION INC. is sued as a Product Defendant. Plaintiffs' claims against ROCKWELL AUTOMATION INC. arise out of this Defendant's business activities in the State of South Carolina.

72. Defendant, **RUST ENGINEERING & CONSTRUCTION, INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST ENGINEERING & CONSTRUCTION, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST ENGINEERING & CONSTRUCTION, INC. is sued as a Product Defendant and a Design Defendant. RUST ENGINEERING & CONSTRUCTION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against RUST ENGINEERING & CONSTRUCTION, INC. arise out of this Defendant's business activities in the State of South Carolina.

73. Defendant, **RUST INTERNATIONAL INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST INTERNATIONAL INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST INTERNATIONAL INC. is sued as a Product Defendant and a Design Defendant. RUST INTERNATIONAL INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against RUST INTERNATIONAL INC. arise out of this Defendant's business activities in the State of South Carolina.

74. Defendant, **SAINT-GOBAIN ABRASIVES, INC.**, f/k/a NORTON COMPANY, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, SAINT-GOBAIN ABRASIVES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Norton grinding wheels. SAINT-GOBAIN ABRASIVES, INC. is sued as a Product Defendant. Plaintiffs' claims against SAINT-GOBAIN ABRASIVES, INC. arise out of this Defendant's business activities in the State of South Carolina.

75. Defendant, **SCHNEIDER ELECTRIC USA, INC.**, f/k/a SQUARE D COMPANY, was and is a Delaware corporation with its principal place of business in Massachusetts. At all times material hereto, SCHNEIDER ELECTRIC USA, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Square D electrical panels and components. SCHNEIDER ELECTRIC USA, INC. is sued as a Product Defendant. Plaintiffs' claims against SCHNEIDER ELECTRIC USA, INC. arise out of this Defendant's business activities in the State of South Carolina.

76. Defendant, **SOUTHERN INSULATION, INC.**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, SOUTHERN INSULATION, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation at numerous jobsites throughout the southeastern United States. SOUTHERN INSULATION, INC. is sued as a Product Defendant. SOUTHERN INSULATION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Southern Insulation, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against SOUTHERN INSULATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

77. Defendant, **SPIRAX SARCO, INC.**, was and is a Delaware corporation with its principal place of business in South Carolina. At all times material hereto, SPIRAX SARCO, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Sarco steam traps. SPIRAX SARCO, INC. is sued as a Product Defendant. Plaintiffs' claims against SPIRAX SARCO, INC. arise out of this Defendant's business activities in the State of South Carolina.

78. Defendant, **UNION CARBIDE CORPORATION**, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, UNION CARBIDE CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers and asbestos-containing phenolic molding products. UNION CARBIDE CORPORATION is sued as a Product Defendant. Plaintiffs' claims against UNION CARBIDE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

79. Defendant, **VISTRA INTERMEDIATE COMPANY LLC**, individually and as successor-in-interest to CRSS INC., was and is a Delaware limited liability corporation with its principal place of business in Texas. At all times material hereto, VISTRA INTERMEDIATE COMPANY LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal

of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. VISTRA INTERMEDIATE COMPANY LLC is sued as a Product Defendant and a Design Defendant. VISTRA INTERMEDIATE COMPANY LLC is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against VISTRA INTERMEDIATE COMPANY LLC arise out of this Defendant's business activities in the State of South Carolina.

80. Defendant, **WESTROCK MWV, LLC**, as successor-in-interest to WESTVACO, was and is a Delaware limited liability company with its principal place of business in Georgia. At all times material hereto, WESTROCK MWV, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction paper. WESTROCK MWV, LLC is sued as a Product Defendant. Plaintiffs' claims against WESTROCK MWV, LLC arise out of this Defendant's business activities in the State of South Carolina.

81. Defendant, **WIND UP, LTD.**, individually and as successor-in-interest to PIPE & BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO., was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, WIND UP, LTD. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. WIND UP, LTD. is sued as a

Product Defendant. WIND UP, LTD. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Wind Up, Ltd., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against WIND UP, LTD. arise out of this Defendant's business activities in the State of South Carolina.

82. Defendant, **ZF ACTIVE SAFETY US INC.**, f/k/a KELSEY-HAYES COMPANY, was and is a Delaware corporation with its principal place of business in Michigan. At all times material hereto, ZF ACTIVE SAFETY US INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Kelsey-Hayes brakes and clutches. ZF ACTIVE SAFETY US INC. is sued as a Product Defendant. Plaintiffs' claims against ZF ACTIVE SAFETY US INC. arise out of this Defendant's business activities in the State of South Carolina.

83. Plaintiff Melvin G. Welch was exposed through his father, Willis G. Welch, and also experienced further occupational exposure himself, as a result of each of them working with and around asbestos-containing equipment in their immediate vicinities at their work sites, including but not limited to, the premises of Defendant PHARMACIA LLC (collectively, hereinafter the "Premises Defendants"). All other Defendants, or their applicable predecessors in interest, (except for METROPOLITAN LIFE INSURANCE COMPANY) were engaged in the manufacture, sale, distribution and/or installation of asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action. At all times relevant to this action, the Defendants and the predecessors of the Defendants, for

whose actions the Defendants are legally responsible, were engaged in the manufacture, sale, distribution, and/or installation of asbestos-containing products and raw materials for use in South Carolina and other states at times relevant to this action.

BACKGROUND FACTS

84. Plaintiff Melvin G. Welch brings this action for monetary damages as a result of contracting an asbestos-related disease.

85. Plaintiff Melvin G. Welch was diagnosed with mesothelioma on or about June 27, 2022.

86. Plaintiff Melvin G. Welch's mesothelioma was caused by his exposure to asbestos during the course of his own work in various roles, including but not limited to instrumentation specialist helper and mechanic, as well as through the asbestos carried home on the clothing and person of his father during the years he lived in the family home.

87. During his work history, Plaintiff Melvin G. Welch was exposed to Defendants' asbestos-containing products through his work as an instrumentation specialist helper for Daniel Construction at the Monsanto chemical plant in Greenwood, South Carolina in the mid-late 1960s. Plaintiff performed a variety of tasks throughout the facilities where he worked, which included, but were not limited to, installing instrumentation on various forms of equipment. On these jobsites, he worked with and around asbestos-containing products, including but not limited to pipe and block insulation, cements, spray insulation, gaskets, packing materials, refractory mortar and firebrick for use on turbines, boilers, pipes, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Plaintiff to asbestos and asbestos-dust.

88. During his work history, Plaintiff was further exposed through his work around other trades including but not limited to laborers, sheet metal workers, welders, pipefitters, boilermakers, insulators, electricians, and maintenance mechanics. Plaintiff worked near and closely to a variety of tradesmen working on asbestos-containing pipe and block insulation, cements, spray insulation, gaskets, packing material, refractory motor and firebrick for use on turbines, boilers, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Plaintiff to asbestos and asbestos dust.

89. During his work history, Plaintiff was further exposed to Defendants' asbestos-containing products through his work as an automobile mechanic at various jobsites located in South Carolina from approximately the late 1970s to the mid-late 2000s. Plaintiff worked as a mechanic performing a variety of tasks including but not limited to preventative maintenance and repair work of engines, transmissions, shocks, exhaust, clutches, gaskets, and brakes. He was also required to clean the repair bays, which involved sweeping asbestos dust without any protection. All of these activities exposed Plaintiff to asbestos.

90. Through his work as a mechanic, Plaintiff worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured, sold, supplied and/or distributed by Defendants identified above.

91. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at K-Mart in Greenwood, South Carolina from approximately the late 1970s to the late 1980s.

92. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at M&M Tire in Greenwood, South Carolina from approximately the late 1980s to the mid 1990s.

93. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at Western Auto in Greenwood, South Carolina from approximately the mid 1990s to the mid-late 2000s.

94. Plaintiff also was exposed to Defendants' asbestos-containing friction products during various times throughout his life while performing maintenance and changing the brakes, clutches, and gaskets on his personal vehicles and the vehicles of his friends and family throughout South Carolina from approximately the early 1970s to the present. These activities exposed Plaintiff to asbestos.

95. During the course of Plaintiff Melvin G. Welch's employment at the location(s) mentioned above, during other occupational work projects and in other ways, Plaintiff was exposed to and inhaled, ingested, or otherwise absorbed asbestos dust and fibers emanating from certain products he was working around.

96. Plaintiff Melvin G. Welch was further exposed as a result of his father Willis G. Welch's employment for Daniel Construction as a welder at the Monsanto chemical plant in Greenwood, South Carolina from approximately the mid to the late 1960s. Plaintiff's father performed a variety of tasks throughout the facilities, and was further exposed through his work around various other trades, including, but not necessarily limited to, premises workers and other maintenance workers, insulators, pipefitters, welders, boilermakers, electricians, and others who installed and removed asbestos materials.

97. While employed at the Monsanto chemical plant in Greenwood, South Carolina, Plaintiff's father Willis G. Welch wore his own clothes to work, was exposed to asbestos dust and fibers that he brought home on his work clothes, fell off in his vehicle and were on his body including his hair, that distributed and re-entrained in his vehicle and home which caused Plaintiff Melvin G. Welch to be exposed to said asbestos dust in sufficient amounts as to cause him to develop mesothelioma.

98. From approximately the early 1960s to the early 1970s, Plaintiff Melvin G. Welch was exposed to asbestos dust and fibers from products, services, and goods manufactured, distributed and/or sold by Defendants for use at Plaintiff's father Willis G. Welch's jobsites which Plaintiff came in contact with off premises by contact with his father's work clothes, personal possessions and vehicle. Plaintiff's exposure to asbestos dust and fibers occurred through his contact with his father's work clothing and person when greeting him at the end of his workday, through spending time in his father's vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their home.

99. Plaintiff Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

100. Plaintiffs and Plaintiff Melvin G. Welch's father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

101. Plaintiffs are informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

102. As a direct and proximate result of the conduct as alleged within, Plaintiff Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

103. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred, and will incur, liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Melvin G. Welch's medical treatment is ascertained.

104. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiffs incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs request leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiffs Complain of Defendants for a Cause of Action for Negligence Alleging as Follows:

105. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

106. At all times herein mentioned, each of the named Defendants were an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products.

107. At all times herein mentioned, Defendants and/or their “alternate entities” singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, assembled, distributed, leased, bought, offered for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable

use with asbestos products, in that said products caused personal injuries to Plaintiff Melvin G. Welch and others similarly situated, (hereinafter collectively called “exposed persons”), while being used for their intended purpose and in a manner that was reasonably foreseeable.

108. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos and asbestos-containing products from causing Plaintiff Melvin G. Welch’s mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff’s lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their “alternate entities.” Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or their “alternate entities.” The gravity of the potential harm resulting from the use of Defendants’ asbestos or asbestos-containing products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Plaintiff Melvin G. Welch and his father Willis G. Welch. Defendants and/or their “alternate entities” had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants, each of them, breached said duty of due care.

109. Defendants and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and asbestos-containing products would be transported by truck, rail, ship and other common carriers, that in the shipping process the

products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Plaintiff Melvin G. Welch and his father Willis G. Welch, would use or be in proximity to and exposed to said asbestos fibers.

110. At all times relevant, Defendants and/or their “alternate entities” were aware of their asbestos and asbestos-containing products’ defect but failed to adequately warn Plaintiff Melvin G. Welch, Plaintiff’s family members or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed to recall or retrofit their products. A reasonable manufacturer, distributor, or seller of Defendants’ products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

111. Plaintiff Melvin G. Welch, Plaintiff’s family members and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein in a manner that was reasonably foreseeable. Plaintiff’s and his father Willis G. Welch’s exposure to asbestos and asbestos-containing products occurred at various locations as set forth in this Complaint.

112. Plaintiff Melvin G. Welch suffers from mesothelioma, a cancer related to exposure to asbestos and asbestos-containing products. Plaintiff Melvin G. Welch and his father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury or disease.

113. Defendants' conduct and defective products as described in this cause of action were a direct cause of Plaintiff Melvin G. Welch's injuries, and all damages thereby sustained by Plaintiff Melvin G. Welch. Plaintiffs therefore seek all compensatory damages in order to make them whole, according to proof.

114. Furthermore, the conduct of Defendants and/or their "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiff Melvin G. Welch and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Plaintiff Melvin G. Welch and others similarly situated.

115. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, Defendants and/or their "alternate entities" did so with conscious disregard for the safety of "exposed persons" who came in contact with asbestos and asbestos-containing products, in that Defendants and/or their "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, asbestosis, mesothelioma, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their "alternate entities."

116. Defendants and their “alternate entities” were aware that members of the general public and other “exposed persons,” who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products, could cause injury, and Defendants and their “alternate entities,” each of them, knew that members of the general public and other “exposed persons,” who came in contact with asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact said exposure was extremely hazardous to health and human life.

117. The above-referenced conduct of Defendants and their “alternate entities,” was motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing, uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Defendants, their “alternate entities,” and each of them consciously disregarded the safety of “exposed persons” in pursuit of profit. Defendants were consciously willing and intended to permit asbestos and asbestos-containing products to cause injury to “exposed persons” without warning them of the potential hazards and further induced persons to work with and be exposed thereto, including Plaintiff Melvin G. Welch.

118. Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants' asbestos, asbestos containing-products, and products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Defendants and/or their "alternate entities" further failed to adequately warn of the risks to which Plaintiff and others similarly situated were exposed.

119. Defendants and/or their "alternate entities" are liable for the fraudulent, oppressive, and malicious acts of their "alternate entities," and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their "alternate entities" as set forth herein.

120. The herein-described conduct of Defendants and their "alternate entities," was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiffs, for the sake of example and by way of punishing said Defendants, seek punitive damages according to proof against all defendants.

FOR A SECOND CAUSE OF ACTION

(Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

121. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

122. Plaintiff Melvin G. Welch has suffered from mesothelioma, a cancer related to exposure to asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Plaintiff Melvin G. Welch was not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

123. The Products Defendants' conduct and defective products as described above were a direct cause of Plaintiff Melvin G. Welch's injuries, and the injuries and damages thereby sustained by Plaintiffs.

124. Furthermore, the Defendants' conduct and that of their "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiff Melvin G. Welch and the public without adequate warnings or proper use instructions, was done in a conscious disregard and indifference to the safety and health of Plaintiff Melvin G. Welch and others similarly situated.

125. Defendants and/or their "alternate entities" knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, "rip-out," and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling, "exposed persons," including Plaintiff, would use or be in proximity to and exposed to said asbestos fibers.

126. Plaintiff Melvin G. Welch, Plaintiff's family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products

manufactured for foreseeable use with asbestos products, referred to herein in a manner that was reasonably foreseeable. Plaintiff Melvin G. Welch's exposure to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products occurred at various locations as set forth in this Complaint.

127. Defendants and/or their "alternate entities" knew and intended that the above-referenced asbestos and asbestos-containing products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

128. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants' asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiff Melvin G. Welch's mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff's lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products of Defendants and/or their "alternate entities." The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing products, and the likelihood such harm would occur, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions

for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

129. The defect existed in the said products at the time they left the possession of defendants and/or their “alternate entities,” and each of them. Said products were intended to reach the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including mesothelioma, asbestosis, other lung damage, and cancer to “exposed persons,” including Plaintiff Melvin G. Welch herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

130. Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Said Defendants and/or their “alternate entities” further failed to adequately warn of the risks to which Plaintiff Melvin G. Welch and others similarly situated were exposed.

131. Defendants’ defective products as described above were a direct cause of Plaintiff Melvin G. Welch’s injuries, and the damages thereby sustained.

132. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos, asbestos-containing products, and products manufactured for

foreseeable use with asbestos products, Defendants and/or their “alternate entities,” and each of them, did so with conscious disregard for the safety of Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons who came in contact with the asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, in that Defendants and/or their “alternate entities” had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, mesothelioma, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

133. Defendants and/or their “alternate entities” were aware that members of the general public and other exposed persons, who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products could cause injury. Defendants and/or their “alternate entities” further knew that members of the general public and other exposed persons, who came in contact with asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact exposure was extremely hazardous to health and human life.

134. The above-referenced conduct of Defendants and/or their “alternate entities” motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication,

labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products. Defendants and/or their "alternate entities" consciously disregarded the safety of "exposed persons" in their pursuit of profit and in fact consciously intended to cause injury to Plaintiff Melvin G. Welch and other exposed persons and induced persons to work with, be exposed to, and thereby injured by asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products.

135. Defendants are liable for the fraudulent, oppressive, and malicious acts of their "alternate entities," and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of their "alternate entities" as set forth herein.

136. The conduct of said defendants, their "alternate entities," and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons. Plaintiffs, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against all defendants.

137. At all times herein mentioned, each of the named Defendants, and/or their "alternate entities," was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as "alternate entities," engaged in the business of researching, studying,

manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos and products manufactured for foreseeable use with asbestos products.

FOR A THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondeat Superior)

As a Third Distinct Cause of Action Against Defendants, Plaintiffs Bring this Third Cause of Action for Vicarious Liability of Product and Premises Defendants Based upon Respondeat Superior and Allege as Follows:

138. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

139. Prior to and during all relevant times Defendants and/or their “alternate entities” employed workers (hereinafter “employees”) in areas where defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff Melvin G. Welch and/or his father Willis G. Welch worked and/or spent time as alleged above.

140. At all times herein mentioned, Defendants’ employees frequently encountered asbestos-containing products, materials, and debris during the course and scope of their employment, and during their regular work activities negligently disturbed asbestos-containing materials to which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed.

141. Employees handling and disturbing asbestos-containing products in Plaintiff Melvin G. Welch’s and his father Willis G. Welch’s vicinity were the agents and employees of defendants and at all times relevant were subject to the control of Defendants with respect to their acts, labor, and work involving (a) the removal, transport, installation, cleaning, handling, and maintenance of asbestos-containing products, materials, and debris, and (b) the

implementation of safety policies and procedures. Defendants controlled both the means and manner of performance of the work of their employees as described herein.

142. Employees handling and disturbing asbestos-containing products in Plaintiff Melvin G. Welch's, Plaintiff's family members and others' vicinity received monetary compensation from Defendants in exchange for the work performed and these employees performed the work in the transaction and furtherance of Defendants' businesses.

143. Harmful asbestos fibers were released during Defendants' employees' use, handling, breaking, or other manipulation of asbestos-containing products and materials.

144. Once released, the asbestos fibers contaminated the clothes, shoes, skin, hair, and body parts of those exposed, including Plaintiff Melvin G. Welch and his father Willis G. Welch, who also inhaled those fibers, and on the surfaces of work areas, where further activity caused the fibers to once again be released into the air and inhaled by Plaintiff Melvin G. Welch.

145. The asbestos and asbestos-containing materials were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air onto surrounding surfaces, and onto persons in the area. The inhalation of asbestos fibers can cause serious disease and death.

146. Defendants' employees' use, handling and manipulation of asbestos-containing materials, as required by their employment and occurring during the course and scope of their employment, did in fact, cause personal injuries, including mesothelioma and other lung damage, to exposed persons including Plaintiff Melvin G. Welch.

147. Defendants' employees were negligent in their use, handling and manipulation of said products in that they failed to isolate their work with asbestos and/or to suppress asbestos fibers from being released into the air and surrounding areas. They also failed to take appropriate

steps to learn how to prevent exposure to asbestos, failed to warn and/or adequately warn Plaintiff and his father Willis G. Welch that he was being exposed to asbestos, failed to adequately warn Plaintiff Melvin G. Welch and his father Willis G. Welch of the harm associated with his exposure to asbestos, and provide him with protection to prevent his inhalation of asbestos.

148. Defendants' employees knew or should have known that failure to take such steps would result in exposure to bystanders including Plaintiff Melvin G. Welch and his father Willis G. Welch.

149. Defendants' employees owed Plaintiff Melvin G. Welch and his father Willis G. Welch a duty to exercise due care and diligence in their activities while he was lawfully on the premises so as not to cause him harm.

150. Defendants' employees breached this duty of care as described above.

151. At all times mentioned, Plaintiff Melvin G. Welch and his father Willis G. Welch were unaware of the dangerous condition and unreasonable risk of personal injury created by Defendants' employees' use of and work with asbestos-containing products and materials.

152. As a direct result of the Defendants' employees conduct, Plaintiff Melvin G. Welch's and his father Willis G. Welch's exposure to asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products, each individually and together, caused severe and permanent injury to Plaintiff Melvin G. Welch and the damages and injuries as complained of herein by Plaintiffs.

153. The risks herein alleged and the resultant damages suffered by the Plaintiff Melvin G. Welch were typical of or broadly incidental to Defendants' business enterprises. As a practical matter, the losses caused by the torts of Defendants' employees as alleged were sure to

occur in the conduct of Defendants' business enterprises. Nonetheless, Defendants engaged in, and sought to profit by, their business enterprises without exercising due care as described in this Complaint, which, on the basis of past experience, involved harm to others as shown through the torts of employees.

154. Based on the foregoing, Defendants as the employers of said employees are vicariously liable under the doctrine of respondeat superior for all negligent acts and omissions committed by their employees in the course and scope of their work that caused harm to Plaintiff Melvin G. Welch.

FOR A FOURTH CAUSE OF ACTION
(Premises Liability: Negligence as to Premises Owner/Contractor)

As a Fourth Distinct Cause of Action for General Negligence, Plaintiffs Complain of Defendants, and Allege as Follows:

155. Plaintiffs incorporate by reference, the preceding paragraphs as if fully set forth herein.

156. Prior to and during all relevant times, the Defendants and/or their "alternate entities" employed workers in areas where Defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff Melvin G. Welch and his father Willis G. Welch worked and/or spent time.

157. At all times herein mentioned, Defendants selected, supplied, and distributed asbestos-containing materials to their employees for use during their regular work activities, and said employees disturbed those asbestos-containing materials.

158. Defendants were negligent in selecting, supplying, distributing and disturbing the asbestos-containing products and in that said products were unsafe. Said products were unsafe because they released asbestos fibers and dust into air when used which would be inhaled by

Plaintiff Melvin G. Welch and his father Willis G. Welch and settled onto their clothes, shoes, hands, face, hair, skin, and other body parts thus creating a situation whereby workers and bystanders including Plaintiff Melvin G. Welch would be exposed to dangerous asbestos dust beyond the present.

159. The asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products described herein were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air, and the inhalation of asbestos fibers causes serious disease and death. Here, the handling of the above-described asbestos-containing materials by Defendants' employees, as required by their employment and occurring during the course and scope of their employment, did, in fact, cause personal injuries, including mesothelioma, lung cancer and other lung damage, to exposed persons, including Plaintiffs.

160. At all times herein mentioned, Defendants knew or should have known that its employees and bystanders thereto, including Plaintiff Melvin G. Welch and his father Willis G. Welch, frequently encountered asbestos-containing products and materials during the course and scope of their work activities.

161. At all times herein mentioned, Defendants knew or should have known that the asbestos-containing materials encountered by its employees and bystanders thereto including Plaintiff Melvin G. Welch and his father Willis G. Welch, were unsafe in that harmful asbestos fibers were released during the use, handling, breaking, or other manipulation of asbestos-containing products and materials, and that once released, asbestos fibers can be inhaled, and can alight on the clothes, shoes, skin, hair, and body parts of those exposed, where further activity

causes the fibers to once again be released into the air where they can be inhaled, all of which causes serious disease and/or death.

162. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that absent adequate training and supervision, their employees and bystanders thereto including Plaintiff Melvin G. Welch and his father Willis G. Welch were neither qualified nor able to identify asbestos-containing products nor to identify the hazardous nature of their work activities involving asbestos-containing products.

163. At all times herein mentioned, Plaintiff Melvin G. Welch and his father Willis G. Welch were unaware of the dangerous condition and unreasonable risk of personal injury created by the presence and use of asbestos-containing products and materials.

164. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that workers and bystanders thereto, would bring dangerous dust home from the workplace and contaminate their family cars and homes, continuously exposing and potentially causing injury to others off the premises.

165. At all times herein mentioned, Defendants had a duty to use due care in the selection, supply, distribution and disturbance of asbestos-containing products and materials to its employees, to adequately instruct, train, and supervise their employees and to implement adequate safety policies and procedures to protect workers and persons encountering those workers, including Plaintiff Melvin G. Welch, from suffering injury or death as a result of the asbestos hazards encountered and created by the work of Defendants' employees.

166. Defendants' duties as alleged herein exist and existed independently of Defendants' duties to maintain their premises in reasonably safe condition, free from concealed hazards.

167. Defendants negligently selected, supplied, and distributed the asbestos-containing materials and failed to adequately train or supervise their employees to identify asbestos-containing products and materials; to ensure the safe handling of asbestos-containing products and materials encountered during the course of their work activities; and to guard against inhalation of asbestos fibers and against the inhalation of asbestos fibers by those who would come into close contact with them after they had used, disturbed, or handled, said asbestos-containing products and materials during the course and scope of their employment by Defendants.

168. Defendants failed to warn their employees and bystanders thereto, including Plaintiff Melvin G. Welch and his father Willis G. Welch, of the known hazards associated with asbestos and the asbestos-containing materials they were using and/or disturbing.

169. As a direct and proximate result of the conduct of Defendants in selecting, supplying, distributing and disturbing asbestos-containing materials or products manufactured for foreseeable use with asbestos products and failing to adequately train and supervise their employees and failing to adopt and implement adequate safety policies and procedures as alleged herein, Plaintiff Melvin G. Welch became exposed to and inhaled asbestos fibers, which was a substantial factor in causing Plaintiff Melvin G. Welch to develop asbestos-related disease mesothelioma, and to suffer all damages attendant thereto.

FOR A FIFTH CAUSE OF ACTION
(Negligence Per Se)

As a Fifth Distinct Cause of Action for Negligence Per Se, Plaintiffs Complain of Defendants, and Allege as Follows:

170. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

171. The actions of Defendants also constituted negligence per se.

172. Defendants violated federal and state regulations relating to asbestos exposure. Such violations constitute negligence per se or negligence as a matter of law. Further, each such violation resulted in dangerous and unlawful exposures to asbestos for Plaintiff Melvin G. Welch. Plaintiffs are not making any claims under federal law; instead, Plaintiffs are simply using the violation of federal standards as proof of liability on their state-law theories. Further, the reference to Federal regulations does not create a federal question. *See Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804 (1986). Any removal on this basis will be met with an immediate motion for remand and for sanctions.

173. The negligence per se of Defendants was a proximate cause of Plaintiffs' injuries.

FOR A SIXTH CAUSE OF ACTION
(Negligence as to Design Defendants)

As a Sixth Distinct Cause of Action for Negligence, Plaintiffs Complain of Design Defendants and Allege as Follows:

174. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

175. The work performed by the Design Defendants was defective in all, but not limited to, the following particulars:

- (a) In failing and neglecting to properly inspect the building for defects in the construction, design, and defects in the asbestos-containing products, materials and/or equipment.
- (b) In failing and neglecting to properly train employees in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (c) In failing and neglecting to properly supervise employees, contractors, subcontractors, and/or suppliers in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.

- (d) In failing and neglecting to employ careful contractors and/or employees.
- (e) In failing and neglecting to properly install asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (f) In failing to properly install the asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (g) In failing to properly warn Plaintiff Melvin G. Welch and his father Willis G. Welch of dangers and risks associated with the conditions of the material and work product which was being installed for use by Plaintiff and others in his vicinity.
- (h) By such other failures as will be proved at trial.

All of which is contrary to one or more of workmanlike practice; the plans, specifications, and other contract documents; manufacturers' recommendations and instructions; trade custom and usage; and applicable building codes.

1. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiffs suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR A SEVENTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

As a Seventh Distinct Cause of Action for Negligent Design Services, Plaintiffs Complain of Design Defendants and Allege as Follows:

2. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

3. Design Defendants owed Plaintiff Melvin G. Welch and his father Willis G. Welch a duty to perform professional design services, including construction administration, in

accordance with professional standards obtained in South Carolina for the delivery and performance of such services.

4. Design Defendants breached such professional standards in all, but not limited to, the following particulars:

- (a) In failing and neglecting to take reasonable care in the design of said building.
- (b) In failing and neglecting to properly design said building, to issue proper construction, to prevent continuous and substantial exposure to asbestos and/or asbestos-containing products.
- (c) In failing and neglecting to properly supervise the construction of said building.
- (d) In failing and neglecting to properly and reasonably design said building to eliminate exposure to asbestos and/or asbestos-containing products, including but not limited to asbestos-containing insulation.
- (e) In negligently specifying the use of inappropriate, improper and/or defective and deficient building systems, materials, and components, including but not limited to asbestos-containing insulation.
- (a) By such other failures as will be proved at trial.

1. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiffs have suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR AN EIGHTH CAUSE OF ACTION
(Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314)

As an Eighth Distinct Cause Of Action for Breach of Implied Warranties, Plaintiffs Complain of Defendants and Allege as Follows:

2. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

3. Each of the Defendants and/or their “alternate entities” impliedly warranted that their asbestos materials or asbestos-containing products were of good and merchantable quality and fit for their intended use.

4. The implied warranty made by the Defendants, and/or their alter egos, and/or their “alternate entities” that the asbestos and asbestos-containing products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Plaintiff Melvin G. Welch and his father Willis G. Welch carried out their duties and was as a result inhaled by Plaintiff Melvin G. Welch.

5. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to Defendants’ asbestos, asbestos-containing products, and/or products manufactured for foreseeable use with asbestos products and consequently developed mesothelioma, causing Plaintiffs to suffer all damages attendant thereto.

FOR A NINTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

For a Ninth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendants, and Allege as Follows:

6. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

7. That during, before and after Plaintiff Melvin G. Welch's exposure to asbestos products manufactured by Defendants and/or their "alternate entities", the Defendants and/or their "alternate entities" falsely represented facts, including the dangers of asbestos exposure to Plaintiff Melvin G. Welch and his father Willis G. Welch in the particulars alleged in the paragraphs above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiff Melvin G. Welch. At the same time of these misrepresentations, Defendants each knew of the falsity of their representations and/or made the representations in reckless disregard of their truth or falsity.

8. The foregoing representations were material conditions precedent to Plaintiff Melvin G. Welch's continued exposure to asbestos-containing products. Defendants and/or their "alternate entities" each intended that Plaintiff Melvin G. Welch and his father Willis G. Welch act upon the representations by continuing his work around, and thereby exposure to, the asbestos products. Plaintiff Melvin G. Welch and his father Willis G. Welch were ignorant of the falsity of Defendants' representations and rightfully relied upon the representations.

9. As a direct and proximate result Plaintiff Melvin G. Welch's and his father Willis G. Welch's reliance upon Defendants' false representations, Plaintiffs have injury and damages as described herein.

FOR A TENTH CAUSE OF ACTION

(Conspiracy, Concert of Action – Defendant Metropolitan Life Insurance Company)

For a Tenth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendant Metropolitan Life Insurance Company, and Allege as Follows:

10. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

11. Beginning in the late 1920's, conspirators including Defendant Metropolitan Life Insurance Company ("Met Life"), as well as Johns-Manville, Raybestos-Manhattan and others, undertook a duty to conduct research on asbestos-related health problems and to inform the public about any health risks that could be associated therewith. In or about 1929, Met Life, through its agents and employees acting within the scope of their agency and employment, including but not limited to Dr. Anthony J. Lanza ("Lanza"), began an investigation of asbestos-related health hazards. In 1935, this study was altered by Lanza, with the full knowledge of Met Life, at the request of and in concert with the asbestos industry in order to wrongly influence the United States Public Health Service, the United States medical community and various state legislatures.

12. Thereafter, Defendant Met Life through the acts and omissions of its employees, most notably Lanza, undertook a series of activities with various members of the asbestos industry including but not limited to Johns-Manville, Raybestos-Manhattan/Raymark Industries, Inc., United States Gypsum, American Brake Blok/Abex, and others to suppress and misrepresent the dangers of exposure to asbestos dust to employees of Met Life's insureds and the general public and the medical community.

13. The conspirators through their agent, Lanza of Met Life, made a concerted effort to discredit and to terminate the experiments of certain scientists who were developing data of

profound importance for the area of public health in relation to the cancer hazard which existed for workers and bystanders in the asbestos industry.

14. As a direct and proximate result of Met Life's intentional publication of deceptive and misleading medical data and information, and other conspiratorial acts and omissions, Defendant caused asbestos to be used in the occupational settings from which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to and breathed asbestos dust which resulted in Plaintiff Melvin G. Welch's injuries. Defendant Met Life, through its agents and employees and officers, aided and abetted and gave substantial assistance to Johns-Manville and Raybestos-Manhattan in their tortious selling of asbestos products and voluntarily undertook a duty to warn the United States Public Health Service, the medical community, and others about the danger of asbestos and consciously and negligently misrepresented the dangers of asbestos to the United States Public Health Service, the medical community, and others, all to the ultimate harm of Plaintiffs herein.

15. Defendant Met Life rendered substantial aid and assistance to the manufacturers of asbestos-containing products to which Plaintiff Melvin G. Welch was exposed, and such assistance by Met Life aided and abetted the negligence and the marketing of unreasonably dangerous asbestos-containing products by such manufacturers which proximately caused Plaintiff Melvin G. Welch's illness.

16. In both conducting tests and in publishing their alleged results, Met Life failed to exercise reasonable care to conduct or publish complete, adequate and accurate tests of the health effects of asbestos. Met Life also caused to be published intentionally false, misleading, inaccurate and deceptive information about the health effects of asbestos exposure.

17. Plaintiff Melvin G. Welch unwittingly and justifiably relied upon the thoroughness of Met Life's tests and information dissemination, the results of which Met Life published in leading medical journals.

18. As a direct and proximate contributing result of Met Life's failures to conduct or accurately publish adequate tests or disseminate accurate and truthful information, after undertaking to do so; (i) the risk of harm to Plaintiff Melvin G. Welch from asbestos exposure was increased, and (ii) Plaintiffs suffered the injuries described herein.

19. In failing to test fully and adequately for the adverse health effects from exposure to asbestos; in delaying the publication of such results; and in falsely editing such results as were obtained; in suppressing relevant medical inquiry and knowledge about those hazards to promote the sale and distribution of asbestos as a harmless product; and in collaborating with the other Defendants materially to understate the hazards of asbestos exposure, all for its own profit and gain, Met Life acted recklessly, wantonly, and in calculated disregard for the welfare of the general public, including Plaintiff.

20. Additionally and alternatively, as a direct and proximate result of Met Life's actions and omissions, Plaintiff and his father Willis G. Welch were caused to remain ignorant of all the dangers of asbestos resulting in Plaintiff Melvin G. Welch, his father Willis G. Welch, their co-workers, their wives and families, and the general public to be unaware of the true and full dangers of asbestos, depriving Plaintiff Melvin G. Welch and his father Willis G. Welch of the opportunity to decide for themselves whether they wanted to take the risk of being exposed to asbestos, denied Plaintiff Melvin G. Welch and his father Willis G. Welch the opportunity to take precautions against the dangers of asbestos and proximately caused Plaintiffs' damages herein.

21. During the relevant time period the Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to and did inhale and/or ingest asbestos dust, fibers, and particles, which dust, fibers, and particles came from the asbestos or asbestos-containing products which were mined, milled, manufactured, fabricated, supplied, and/or sold by the Johns Manville and/or Raybestos/Raymark.

22. Defendant, Met Life, together with Manville, Raymark and other persons and entities, known and unknown at times relevant hereto, engages in a conspiracy or concert of action to inflict injury on the Plaintiff Melvin G. Welch, and to withhold, alter, suppress and misrepresent information about the health effects of asbestos exposure. One or more of said conspirators did cause tortious injury to the Plaintiff Melvin G. Welch or his wife in the course of or as a consequence of the conspiracy or concert of action. At least the following enumerated acts were undertaken by the conspirators in the course of and in furtherance of the conspiracy or concert of action:

- (a) In 1932, Met Life, through Lanza and others, assisted Manville with medical examinations of over 1,000 employees of Manville's factory in Manville, New Jersey. The report of this study shows that a large percentage of the employees suffered from asbestosis including employees not directly involved in the manufacturing process. This 1932 medical survey was not published in the medical literature and, therefore, was unavailable to scientists studying the issue of asbestos-related disease. Further collaboration between Manville and Met Life continued the cover-up.
- (b) Beginning in approximately 1934, Manville, through its agents, Vandiver Brown and Attorney J.C. Hobart, suggested to Lanza, Associate Director of Met Life, which was then insurer of Manville and Raymark, that Lanza publish a study on asbestosis in which Lanza would affirmatively misrepresent material facts about the health consequences of asbestos exposure. This was accomplished through intentional deletion of Lanza's description of asbestosis as 'fatal' and through other selective editing that affirmatively misrepresent asbestosis as a disease process less serious than it actually is and was known to be. As a result, Lanza's study was published in the medical literature in this misleading fashion in 1935. The

conspirators were motivated, in part, to effectuate this fraudulent misrepresentation and fraudulent nondisclosure by the desire to influence proposed legislation to regulate asbestos exposure and to provide a defense in lawsuits involving Manville, Raymark, and Met Life as insurer. Furthermore, upon information and belief, it is alleged that Met Life, at all times relevant hereto, had substantial monetary investments in Manville and Raymark, among other asbestos product manufacturers and distributors.

- (c) In 1936, the conspirators or some of them entered into an agreement with the Saranac Laboratories. Under this agreement, these conspirators acquired the power to decide what information Saranac could publish about asbestos disease and to control in what form such publications would occur. This agreement gave these conspirators power to affirmatively misrepresent the results of the work at Saranac, and also gave these conspirators power to material facts included in any study. On numerous occasions thereafter, the conspirators exercised their power to prevent Saranac scientists from disclosing material scientific data, resulting in numerous misstatements of fact being made at scientific meetings.
- (d) By November 1948, or earlier, Manville, Met Life (acting through Lanza), Raymark, and others decided to exert their influence to materially alter and misrepresent material facts about the substance of research started by Dr. Leroy Gardner at the Saranac Laboratories beginning in 1936. Dr. Gardner's research involved carcinogenicity of asbestos in mice and also included an evaluation of the health effects of asbestos on humans with a critical review of the then-existing standards of dust exposure for asbestos and asbestos products.
- (e) At a meeting on November 11, 1948, these conspirators and others intentionally and affirmatively determined that Dr. Gardner's work should be edited to specifically delete material facts about the cancer-causing propensities of asbestos and the health effects of asbestos on humans and they determined that only an edited version would be published. These conspirators thereby fraudulently misrepresented the risks of asbestos exposure to the public, in general, and to the class of persons exposed to asbestos, including the Plaintiff.
- (f) As a direct result of influence exerted by the above described conspirators, Dr. Arthur Vorwald published Dr. Gardner's edited work in the Journal of Industrial Hygiene, AMA Archives of Industrial Hygiene and Occupational Health in 1951 in a form that stressed those portions of Dr. Gardner's work that the conspirators wished stressed, but which omitted references to human asbestosis and cancer, thereby fraudulently and affirmatively misrepresenting the extent of the risks. The conspirators affirmatively and deliberately disseminated this misleading Vorwald

publication to universities, libraries, government officials, agencies and others.

- (g) Such action constituted a material affirmative misrepresentation of the material facts involved in Dr. Gardner's work and resulted in creating an appearance that inhalation of asbestos was a less serious health concern than Dr. Gardner's unedited work indicated.
- (h) For many decades, Met Life, individually, jointly and in conspiracy with Manville and Raymark, have been in possession of medical and scientific data, literature, and test reports which clearly indicated that the inhalation of asbestos dust and fibers resulting from the ordinary foreseeable use of said asbestos-containing products and/or machinery requiring or calling for the use of asbestos or asbestos-containing products were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly.
- (i) Despite the medical and scientific data, literature and test reports possessed by and available to Met Life, individually and in conspiracy with Manville and Raymark, Fraudulently, willfully and maliciously withheld, concealed and suppressed said medical and scientific data, literature and test reports regarding the risks of asbestosis, cancer, mesothelioma, and other illnesses and diseases from Plaintiff who using and being exposed to Manville or Raymark asbestos-containing products and/or machinery requiring or calling for the use of a s b e s t o s a n d / o r asbestos-containing products; caused to be released, published and disseminated medical and scientific data, literature and test reports containing information and statements regarding the risks of asbestosis, cancer, mesothelioma and other illnesses and diseases, which Metropolitan, Manville and Raymark knew were either incorrect, incomplete, outdated and misleading; distorted the results of medical examinations conducted upon workers who were using asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products and being exposed to the inhalation of asbestos dust and fibers by falsely stating and/or concealing the nature and extent of the harm which workers suffered; and failed to adequately warn the Plaintiff of the dangers to which he was exposed when they knew of the dangers.
- (j) By the false and fraudulent representations, omissions, failures, and concealments set forth above, Met Life, Manville and Raymark, individually, jointly, and in conspiracy with each other, intended to induce the Plaintiff to rely upon said false and fraudulent representations, omissions, failures, and concealments, to continue to expose themselves to the dangers inherent in the use of and exposure to their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products. Said misrepresentations

were false, incomplete, and misleading and constitute negligent misrepresentations as defined by Sections 311 and 522 of the Restatement (Second) of Torts.

1. Plaintiff Melvin G. Welch and his father Willis G. Welch reasonably and in good faith relied upon the false and fraudulent representations, omissions, failures, and concealments made by Met Life, Manville, and Raymark regarding the nature of their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products.

2. As a direct and proximate result of the conspiracy and concert of action between Met Life, Manville and Raymark, the Plaintiff Melvin G. Welch and his father Willis G. Welch have been deprived of the opportunity of informed free choice and connection with the use of and exposure to Manville and Raymark's asbestos and asbestos-containing products, and therefore continued to work with and be exposed to the co-conspirator corporation's asbestos and asbestos-containing products and as a result brought home on his clothes, hair, shoes, and in his case asbestos dust or fibers contracted asbestos-related diseases and other conditions, and/or aggravated pre-existing conditions, as a result of which the Plaintiffs have been damaged.

FOR AN ELEVENTH CAUSE OF ACTION
(Loss of Consortium)

For an Eleventh Distinct Cause of Action for Loss of Consortium, Plaintiff Donna B. Welch Complains of Defendants, and Alleges as Follows:

3. Plaintiff incorporates by reference, the preceding paragraphs, where relevant.
4. Plaintiffs Melvin G. Welch and Donna B. Welch were married November 26, 1972 and at all times relevant to this action were husband and wife.
5. Prior to his injuries as alleged, Plaintiff Melvin G. Welch was able and did perform his spousal duties. As a proximate result thereof, subsequent to the injuries, Plaintiff

Melvin G. Welch has been unable to perform his spousal duties and the work and service usually performed in the care, maintenance and management of the family home. As a proximate result thereof, Plaintiff Donna B. Welch was deprived of the consortium of her spouse, including the performance of duties, all to Plaintiffs' damages, in an amount presently unknown to Plaintiffs but which will be proven at time of trial.

6. As a direct and proximate result of the acts of Defendants and/or their "alternate entities" and the severe injuries caused to Plaintiff Melvin G. Welch as set forth herein, Plaintiff's spouse and co-Plaintiff Donna B. Welch suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, society, comfort, companionship, love and affection of her spouse, and has suffered severe mental and emotional distress and general nervousness. Plaintiffs pray judgment against Defendants, their "alternate entities" and each of them, as hereinafter set forth.

FOR AN TWELFTH CAUSE OF ACTION
(Alter Ego as to DCo, LLC and Enstar Holdings (US), LLC)

For a Twelfth Distinct Cause of Action, Alter Ego Claims, Plaintiffs Complain of Defendants, and allege as follows:

7. Reniz Wisconsin Gasket, LLC, a dissolved Delaware limited liability company ("Reinz") recently, after more than a year of litigating another matter, and shortly before its deposition on its financial status, dissolved as a limited liability company and served counsel of record with a certificate of cancellation.

8. The facts leading up to that event are telling. On August 30, 2022, counsel for Reinz in that action indicated that they intended to produce a witness. Two days later, counsel for Reinz reversed course and announced that it would no longer produce a witness.¹

¹

9. Then, on September 1, 2022, Reinz served that plaintiff with its Notice of Dissolution and Cancellation, both aspects of which were filed on August 30, 2022, the same day that counsel for Reinz was telling plaintiffs that it would produce a witness. A true and correct copy of the Notice of Dissolution and Cancellation is attached hereto as Exhibit 3.

10. The history of Reinz is intertwined with long time asbestos products manufactures.

Wisconsin Gasket & Manufacturing Co. was founded in Milwaukee, Wisconsin in 1943, and incorporated in Wisconsin in 1944 (“Wisconsin Gasket WI”). A second company, Wisconsin Gasket and Manufacturing Company was incorporated in Delaware in October 1980 (“Wisconsin Gasket DE”) At the time of its incorporation, Wisconsin Gasket DE was a wholly-owned subsidiary of the German Corporation Reinz Dichtungs GmbH. In 1981, Wisconsin Gasket DE purchased all of the assets of Wisconsin Gasket WI. In 1985, Wisconsin Gasket DE changed its name to Reinz Wisconsin Gasket Company. Reinz Wisconsin Gasket Company manufactured gaskets and electrical insulation products, some of which, historically, were asbestos containing. Effective January 1, 2006, Reinz Wisconsin Gasket Company merged into Reinz Wisconsin Gasket, LLC, a Delaware limited liability company, with Reinz Wisconsin Gasket LLC the surviving entity. Reinz Wisconsin Gasket LLC is currently a subsidiary of DCo, LLC.

See Discovery Responses of Reinz at 2 attached as Exhibit 4

11. Reinz, for decades, manufactured and sold asbestos containing engine and automobile gasketing and other materials into the stream of commerce. Asbestos causes mesothelioma, the disease from which Mr. Welch suffers. Welch has identified manufacturers of engine and vehicles to which Reinz, on information and belief, supplied gaskets as responsible, in part, for their injury and subsequent death. Reinz sold asbestos containing component parts to a who’s who of industry including, but not limited to, Dana Corporation (now known as DCo, LLC), General Motors, Cadillac, Chevrolet, and GMC. *See* Listing of

Reinz Customers attached as Exhibit 5. Each of those companies manufactured products to which Mr. Welch has described work on.

12. On information and belief, DCo, LLC (“DCo”), the “parent” of Reinz, was formerly known as Dana Companies LLC. DCo, then named Dana Companies, LLC, was formed in or about 2007 as part of the bankruptcy proceedings of Dana Corporation. DCo was specifically formed to handle all of Dana Corporation’s asbestos liabilities. DCo and its subsidiary Reinz, were sold to Enstar Holdings (US), Inc. or one of its related companies (collectively “Enstar”) in or about 2016. Enstar² is now responsible for all of DCo’s and its subsidiaries’ liabilities, including Reinz³, for asbestos products. The person that signed the certificate of cancellation for Reinz as an “authorized person” is Sara Kirkpatrick. *See Certificate of Cancellation of Reinz* attached as Exhibit 1. Sara Kirkpatrick is in-house legal counsel to the Enstar Group.⁴ Indeed, Enstar admits that it is the “Ultimate Controlling Entity” for Reinz in the March 2020 Quarterly Statement of Providence Washington Insurance

² Enstar “is a market leader in completing legacy acquisitions, having acquired over 75 companies and portfolios since its formation in 2001. See Enstar Press Release attached as Exhibit 6. In other words, Enstar’s business model is to buy manufacturers’ legacy liabilities, e.g. asbestos, and profit from the insurance asset “float” (i.e. profit from investing retained insurance premiums and assets) until they are used to pay claims:

Enstar Annual Report at Exhibit 7 at p. 10 Enstar profits when pending and/or future claims against one of its acquired entities are cut off, whether by contrived dissolution or otherwise. Enstar is not discreet about its model: “An owner of a company with direct exposure to asbestos and environmental liabilities *may wish to dispose of their exposure to such liabilities...*”:

Enstar Annual Report Exhibit 7 at pp 9 and 186

³ Reinz Wisconsin Gasket LLC is a subsidiary of Enstar Holdings Ltd. *See* <https://sec.report/Document/1363829/000136382922000045/a2021q4-exx211listingofsub.htm> (last visited September 13, 2022); <https://www.sec.gov/Archives/edgar/data/1363829/000136382917000017/ex-211.htm> (last visited September 13, 2022).

⁴ *See* Linked In Profile of Sara Kirkpatrick at <https://www.linkedin.com/in/sara-kirkpatrick-4757637b/>

Company. *See* 2020 Quarterly Insurance Statement attached as Exhibit 2 at pp.11 and Schedule Y attached hereto.

13. Reinz, acting apparently without any say in the matter, as the puppet of DCo and Enstar has paid lawyers, all the while, claiming not to have any assets, has now, attempted to disappear from litigation vis-à-vis the signature of Enstar's in house counsel Sara Kirkpatrick. Enstar and DCo, by and through their actions have assumed the mantle of Reinz, and now, they must assume the liabilities. They have acted for and as the company with no regard to the desires or wishes of Reinz or their fiduciary duty to that company. The result is that they are the alter-egos of Reinz and are responsible for all of the debts it has and continues to incur.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or their "alternate entities" in an amount to be proved at trial, as follows:

1. For Plaintiffs' actual damages according to proof, including pain and suffering, mental distress, as well as medical, surgical and hospital bills;
2. For loss of income or earnings according to proof;
3. For loss of care, comfort and society;
4. For punitive damages according to proof;
5. For Plaintiffs' cost of suit herein;
6. For damages for breach of implied warranty according to proof;
7. For damages for fraudulent misrepresentation according to proof;
8. As this claim sounds in equity, Plaintiffs pray for a bench trial and a finding that DCo, LLC is the successor in interest to or alter-ego of Reinz Wisconsin Gasket, LLC;

9. As this claim sounds in equity, Plaintiffs pray for a bench trial and a finding that Enstar Holdings (US), LLC. is the successor in interest to or the alter-ego of Reinz Wisconsin Gasket, LLC;

10. For damages for conspiracy, concert of action (as to Defendant Metropolitan Life Insurance Company); and

11. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,

s/ Theile B. McVey

Theile B. McVey (SC Bar No. 16682)

Jamie D. Rutkoski (SC Bar No. 103270)

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jrutkoski@kassellaw.com

Other email: emoultrie@kassellaw.com

and

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Dallas, TX 75202

T: 214-722-5990

F: 214-722-5991

achapman@dobslegal.com

Other email: drector@dobslegal.com

ATTORNEYS FOR PLAINTIFFS

**October 28, 2022
Columbia, South Carolina**

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

MELVIN G. WELCH and
DONNA B. WELCH

Plaintiffs,

v.

3M COMPANY

f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY

ACCEL PERFORMANCE GROUP LLC

f/k/a PRESTOLITE PERFORMANCE LLC,
successor to HAYES PERFORMANCE
BRAKES

ADVANCE AUTO PARTS, INC.

AMERICAN HONDA MOTOR CO., INC.

ATLAS ASBESTOS CO

ATLAS TURNER, INC.

as successor to ATLAS ASBESTOS CO, a
foreign company

AUTOZONE, INC.

BAHNSON, INC.

BEATY INVESTMENTS, INC.

f/k/a GUY M. BEATY & CO.

BELDEN INC.

d/b/a BELDEN 2010 INC.

BELDEN WIRE & CABLE COMPANY

BRIDGESTONE AMERICAS TIRE

OPERATIONS, LLC

f/k/a BRIDGESTONE FIRESTONE NORTH
AMERICAN TIRE, LLC

C/A NO. 2022-CP-40-03834

In Re:

Asbestos Personal Injury Litigation
Coordinated Docket

Living Mesothelioma

THIRD AMENDED COMPLAINT

(Jury Trial Demanded)

EXHIBIT

3.4

CAROLINA TOOL COMPANY)
)
COPELAND CORPORATION LLC)
)
COVIL CORPORATION)
)
DANIEL INTERNATIONAL)
CORPORATION)
)
DAVIS MECHANICAL CONTRACTORS,)
INC.)
)
DCO LLC)
 individually and as successor-in-interest to)
VICTOR GASKET MANUFACTURING)
COMPANY, successor-in-interest to Reinz)
 Wisconsin Gasket, LLC, a dissolved Delaware)
 limited liability company and as alter-ego of)
 Reinz Wisconsin Gasket LLC, a dissolved)
 Delaware limited liability company)
)
EATON CORPORATION)
)
ELLINGTON INSULATION COMPANY,)
INC.)
)
ENSTAR HOLDINGS (US), LLC)
 f/k/a ENSTAR HOLDINGS (US), INC.)
 individually and as successor-in-interest to)
 Reinz Wisconsin Gasket, LLC a dissolved)
 Delaware limited liability company and as alter-)
 ego of Reinz Wisconsin Gasket, LLC, a)
 dissolved Delaware limited liability company)
)
FISHER CONTROLS INTERNATIONAL)
LLC)
)
FLUOR CONSTRUCTORS)
INTERNATIONAL)
 f/k/a FLUOR CORPORATION)
)
FLUOR CONSTRUCTORS)
INTERNATIONAL, INC.)
)
FLUOR DANIEL SERVICES)
CORPORATION)
)

FLUOR ENTERPRISES, INC.	)
	)
FORD MOTOR COMPANY	)
	)
GENERAL ELECTRIC COMPANY	)
	)
GENERAL PARTS, INC.	)
individually and as successor-in-interest to	)
CARQUEST CORPORATION	)
	)
GENUINE PARTS COMPANY	)
d/b/a NAPA	)
	)
GOODRICH CORPORATION	)
f/k/a THE B. F. GOODRICH COMPANY	)
	)
THE GOODYEAR TIRE & RUBBER	)
COMPANY	)
	)
GRAYBAR ELECTRIC COMPANY, INC.	)
	)
HEAT & FROST INSULATION	)
COMPANY, INC.	)
	)
HENNESSY INDUSTRIES, LLC	)
f/k/a HENNESSY INDUSTRIES, INC.	)
	)
HONEYWELL INTERNATIONAL, INC.	)
individually and as successor-in-interest to	)
ALLIED SIGNAL, INC., as successor to	)
BENDIX CORPORATION	)
	)
INDUSTRIAL HOLDINGS	)
CORPORATION	)
f/k/a THE CARBORUNDUM COMPANY	)
	)
JOHNSON CONTROLS, INC.	)
	)
MERITOR, INC.	)
f/k/a ARVINMERITOR, INC., successor-in-	)
interest to the former automotive products	)
segment of ROCKWELL INTERNATIONAL	)
CORPORATION	)
	)
METROPOLITAN LIFE INSURANCE	)
COMPANY	)
a wholly owned subsidiary of METLIFE INC.	)

MORSE TEC LLC

f/k/a BORGWARNER MORSE TEC LLC, and
successor-by-merger to BORG-WARNER
CORPORATION

MW CUSTOM PAPERS, LLC

individually and as successor-in-interest to
MEADWESTVACO

**OCCIDENTAL CHEMICAL
CORPORATION**

as successor to DUREZ CORPORATION

O'REILLY AUTO ENTERPRISES, LLC

individually and as successor-in-interest, parent,
alter ego and equitable trustee of KRAGEN
AUTO PARTS, GRAND AUTO SUPPLY,
O'REILLY AUTO PARTS and CSK AUTO,
INC.

O'REILLY AUTOMOTIVE STORES, INC.

PARAMOUNT GLOBAL

f/k/a VIACOMCBS INC., f/k/a CBS
CORPORATION, a Delaware corporation f/k/a
VIACOM, INC., successor-by-merger to CBS
CORPORATION, a Pennsylvania corporation,
f/k/a WESTINGHOUSE ELECTRIC
CORPORATION

PFIZER, INC.

PHARMACIA LLC

f/k/a PHARMACIA CORPORATION f/k/a
MONSANTO COMPANY

PIEDMONT INSULATION, INC.

PNEUMO ABEX LLC

successor-in-interest to ABEX CORPORATION

REDCO CORPORATION

f/k/a CRANE CO.

REINZ WISCONSIN GASKET LLC

f/k/a and/or successor to REINZ WISCONSIN)
 GASKET CO. and WISCONSIN GASKET)
 MANUFACTURING CO., a wholly owned)
 subsidiary of DCO LLC)
)
RILEY POWER INC.)
 f/k/a BABCOCK BORSIG POWER INC.,)
 f/k/a DB RILEY, INC., f/k/a RILEY STOKER)
 CORPORATION)
)
ROCKWELL AUTOMATION INC.)
 individually and as successor-in-interest to)
 ALLEN-BRADLEY COMPANY LLC, f/k/a)
 ROCKWELL INTERNATIONAL)
 CORPORATION)
)
RUST ENGINEERING &)
CONSTRUCTION, INC.)
)
RUST INTERNATIONAL INC.)
)
SAINT-GOBAIN ABRASIVES, INC.)
 f/k/a NORTON COMPANY)
)
SCHNEIDER ELECTRIC USA, INC.)
 f/k/a SQUARE D COMPANY)
)
SOUTHERN INSULATION, INC.)
)
SPIRAX SARCO, INC.)
)
UNION CARBIDE CORPORATION)
)
VISTRA INTERMEDIATE COMPANY)
LLC)
 individually and as successor-in-interest to)
 CRSS INC.)
)
WESTROCK MWV, LLC)
 individually and as successor-in-interest to)
 WESTVACO)
)
WIND UP, LTD.)
 individually and as successor-in-interest to)
 PIPE & BOILER INSULATION, INC.)
 f/k/a CAROLINA INDUSTRIAL)
 INSULATING CO.)

ZF ACTIVE SAFETY US INC.
f/k/a KELSEY-HAYES COMPANY

Defendants.

PLAINTIFFS' SECOND AMENDED COMPLAINT

Plaintiffs, MELVIN G. WELCH and DONNA B. WELCH (hereinafter "Plaintiffs"), sue the named Defendants for compensatory and punitive damages, by and through their attorneys, and come before this court and allege as follows:

GENERAL ALLEGATIONS

1. Plaintiff Melvin G. Welch has been diagnosed with mesothelioma caused by exposure to asbestos dust and fibers. This exposure occurred as a result of his father Willis G. Welch's work with and around asbestos-containing products, which caused asbestos containing dust to cover his father's clothing, vehicle, and body which he brought home to Plaintiff Melvin G. Welch, who was then exposed to said asbestos dust and fibers. Plaintiff's exposure also occurred as a result of his own work with and around asbestos-containing products.

2. This Court has personal jurisdiction over Defendants because Plaintiffs' claims arise from Defendants' conduct in:

- (a) Transacting business in this State, including the sale, supply, purchase, and/or use of asbestos and/or asbestos-containing products, within this State;
- (b) Contracting to supply services or things in the State;
- (c) Commission of a tortious act in whole or in part in this State;
- (d) Having an interest in, using, or possessing real property in this State; and/or
- (e) Entering into a contract to be performed in whole or in part by either party in this State.

3. Each Defendant, or its predecessors in interest, that manufactured, sold, and/or distributed asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action are referred to herein as “Product Defendants.” At all times relevant to this action, the Product Defendants and the predecessors of the Product Defendants for whose actions the Product Defendants are legally responsible, were engaged in the manufacture, sale and distribution of asbestos-containing products and raw materials.

4. Each Defendant, or its predecessors in interest, that owned and/or controlled the work sites where Plaintiff Melvin G. Welch and his father, Willis G. Welch, experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment in their immediate vicinity are referred to herein as the “Premises Defendants.” At all times relevant to this action:

- (a) the Premises Defendants owned the property and approved the use of asbestos-containing materials on its premises.
- (b) the Premises Defendants invited Plaintiff Melvin G. Welch, as an instrumentation specialist helper and his father, Willis G. Welch, as a welder, on to Defendant’s premises to perform construction work for Defendant’s benefit. Plaintiff and his father were invitees who had express permission to enter Defendant’s premises for the purpose of benefitting the owner (Defendant).
- (c) the Premises Defendants owed a duty of due care to discover risks and take safety precautions to warn of and eliminate unreasonable risks.
- (d) the Premises Defendants’ failure to warn of or eliminate the unreasonable risks associated with working on or around asbestos-containing materials on Defendants’ premises was a substantial factor contributing to cause Plaintiff Melvin G. Welch’s mesothelioma.

5. Each Defendant, or its predecessors in interest, that provided labor, materials, goods, and/or services as architects, consultants, engineers, draftsmen, technicians, surveyors, or otherwise in connection with the design and/or repairs at the work sites where Plaintiff Melvin G. Welch and his father Willis G. Welch experienced occupational exposure as a result of working

with and around others working with asbestos and/or asbestos-containing products, materials, or equipment, are referred to herein as the “Design Defendants.”

6. Plaintiffs’ claims against the Product Defendants, as defined herein, arise out of Defendants’ purposeful efforts to serve directly or indirectly the market for their asbestos and/or asbestos-containing products in this State, either through direct sales or through utilizing an established distribution channel with the expectation that their products would be purchased and/or used within South Carolina.

7. Plaintiffs’ claims against the Premises Defendants, as defined herein, arise out of Defendants’ ownership and/or control of real property located in South Carolina and the purchase and use of asbestos-containing products on their premises located in South Carolina, with which Plaintiff’s father Willis G. Welch, worked, and as a result were exposed to asbestos.

8. Plaintiffs’ claims against the Design Defendants, as defined herein, arise out of Defendants’, and/or Defendants’ employees’, direct and/or indirect purchase and use of asbestos and/or asbestos-containing products, materials, or equipment at the various industrial sites located in South Carolina where Plaintiff Melvin G. Welch experienced occupational exposure to lethal doses of asbestos as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment.

9. All of the named Defendants are corporations who purposefully availed themselves of the privilege of doing business in this State, and whose substantial and/or systematic business in South Carolina exposed Plaintiff Melvin G. Welch to asbestos in this State, subjecting them to the jurisdiction of the South Carolina courts pursuant to the South Carolina Long-Arm Statute and the United States Constitution.

10. In addition to being exposed through his own work, Plaintiff Melvin G. Welch was exposed to asbestos through asbestos dust and fibers brought home on his father’s work clothes, from

asbestos dust in his father's vehicle and asbestos dust on his father's body including his hair, and from the dust being distributed and re-entrained in their home. His exposure to asbestos dust and fibers occurred through his father's work clothing and person when greeting him at the end of his father's workday, through spending time in his vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their family's home.

11. Plaintiff Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

12. Neither Plaintiffs, nor Plaintiff's father Willis G. Welch, were aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

13. Both Plaintiff Melvin G. Welch and his father Willis G. Welch worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured and/or sold by the Product Defendants and used on property owned and controlled by the Premises Defendants. Plaintiff's father Willis G. Welch brought asbestos home with him on his person and clothing, which caused Plaintiff Melvin G. Welch to be exposed to asbestos.

14. Each of the named Defendants is liable for damages stemming from its own tortious conduct or the tortious conduct of an "alternate entity" as hereinafter defined. Defendants are liable for the acts of their "alternate entity" and each of them, in that there has been a corporate name change, Defendant is the successor by merger, by successor in interest, or by other acquisition resulting in a virtual destruction of Plaintiffs' remedy against each such "alternate entity"; Defendants, each of them, have acquired the assets, product line, or a portion thereof, of

each such “alternate entity”; such “alternate entities” have acquired the assets, product line, or a portion thereof of each such Defendant; Defendants, and each of them, caused the destruction of Plaintiffs’ remedy against each such “alternate entity”; each such Defendant has the ability to assume the risk-spreading role of each such “alternate entity;” and that each such defendant enjoys the goodwill originally attached to each “alternate entity.”

DEFENDANT	ALTERNATE ENTITY
3M COMPANY	MINNESOTA MINING AND MANUFACTURING COMPANY
ACCEL PERFORMANCE GROUP LLC	PRESTOLITE PERFORMANCE LLC and HAYES PERFORMANCE BRAKES
ATLAS TURNER, INC.	ATLAS ASBESTOS CO
BEATY INVESTMENTS, INC.	GUY M. BEATY & CO.
BELDEN INC.	BELDEN 2010 INC.
BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC	BRIDGESTONE FIRESTONE NORTH AMERICAN TIRE, LLC
DCO LLC	VICTOR GASKET MANUFACTURING COMPANY REINZ WISCONSIN GASKET, LLC
ENSTAR HOLDINGS (US), LLC	ENSTAR HOLDINGS (US), INC and REINZ WISCONSIN GASKET, LLC
FLUOR CONSTRUCTORS INTERNATIONAL	FLUOR CORPORATION
GENERAL PARTS, INC.	CARQUEST CORPORATION
GENUINE PARTS COMPANY	NAPA
GOODRICH CORPORATION	THE B. F. GOODRICH COMPANY

DEFENDANT	ALTERNATE ENTITY
HENNESSY INDUSTRIES, LLC	HENNESSY INDUSTRIES, INC.
HONEYWELL INTERNATIONAL, INC.	ALLIED SIGNAL, INC. and BENDIX CORPORATION
INDUSTRIAL HOLDINGS CORPORATION	THE CARBORUNDUM COMPANY
MERITOR, INC.	ARVINMERITOR, INC. and ROCKWELL INTERNATIONAL CORPORATION
METROPOLITAN LIFE INSURANCE COMPANY	METLIFE INC.
MORSE TEC LLC	BORGWARNER MORSE TEC LLC and BORG-WARNER CORPORATION
MW CUSTOM PAPERS, LLC	MEADWESTVACO
OCCIDENTAL CHEMICAL CORPORATION	DUREZ CORPORATION
O'REILLY AUTO ENTERPRISES, LLC	KRAGEN AUTO PARTS, GRAND AUTO SUPPLY, O'REILLY AUTO PARTS, and CSK AUTO, INC.
PARAMOUNT GLOBAL	VIACOMCBS INC., CBS CORPORATION, a Delaware corporation, VIACOM, INC., CBS CORPORATION, a Pennsylvania corporation, and WESTINGHOUSE ELECTRIC CORPORATION
PHARMACIA LLC	PHARMACIA CORPORATION and MONSANTO COMPANY
PNEUMO ABEX, LLC	ABEX CORPORATION
REDCO CORPORATION	CRANE CO.

DEFENDANT	ALTERNATE ENTITY
REINZ WISCONSIN GASKET LLC	REINZ WISCONSIN GASKET CO., WISCONSIN GASKET & MANUFACTURING CO., and DCO LLC
RILEY POWER INC.	BABCOCK BORSIG POWER INC., DB RILEY, INC., and RILEY STOKER CORPORATION
ROCKWELL AUTOMATION INC.	ALLEN-BRADLEY COMPANY LLC and ROCKWELL INTERNATIONAL CORPORATION
SAINT-GOBAIN ABRASIVES, INC.	NORTON COMPANY
SCHNEIDER ELECTRIC USA, INC.	SQUARE D COMPANY
VISTRA INTERMEDIATE COMPANY LLC	CRSS INC.
WESTROCK MWV, LLC	WESTVACO
WIND UP, LTD.	PIPE AND BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO.
ZF ACTIVE SAFETY US INC.	KELSEY-HAYES COMPANY

15. Plaintiffs have been informed and believe, and thereon allege, that at all times herein mentioned, Defendants or their “alternate entities” were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and existing under and by virtue of the laws of the State of South Carolina, or the laws of some other state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

16. Plaintiffs have been informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

17. As a direct and proximate result of the conduct as alleged within, Plaintiff Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

18. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Melvin G. Welch's medical treatment is ascertained.

19. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred, and will incur, loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs pray leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

20. Plaintiffs hereby disclaim each and every claim or cause of action which does or may arise from any United States armed forces service, or on any federal enclave. This disclaimer is not related solely to actions taken by or at the direction of a federal officer, but is, rather broader. Plaintiffs are not making any claims and are not alleging any causes of action against any entity for any asbestos exposure of any kind which occurred as a result of Plaintiff Melvin G. Welch's

United States armed forces service. Moreover, Plaintiffs are further disclaiming each and every claim or cause of action arising from any exposure to asbestos as a result of the Plaintiff's presence on or at any federal enclave. Plaintiffs further disclaim each and every claim or cause of action arising under the United States Constitution and under any Federal Law or Regulation. Finally, Plaintiffs disclaim each and every claim or cause of action which may be asserted under federal admiralty or maritime law. Courts across the Country have found that such disclaimers are proper and within the province of the Plaintiffs to disclaim. Any removal by any defendant on the basis of the disclaimed claims will result in a motion for sanctions and seeking attorneys' fees.

THE PARTIES

21. Plaintiffs Melvin G. Welch and Donna B. Welch are currently residents of the State of South Carolina. Plaintiff Melvin G. Welch was exposed to asbestos as a result of his father Willis G. Welch's career at various job sites, including but not limited to, locations in South Carolina. Plaintiff was exposed to asbestos dust and fibers taken home on his father, from asbestos dust in his father's vehicle, asbestos dust on his father's body including his hair, and from the dust being distributed and re-entrained. Plaintiff Melvin G. Welch was also exposed to asbestos during the course of his own career at various job sites, including but not limited to, locations in multiple states, including but not limited to South Carolina.

22. Defendant, **3M COMPANY**, f/k/a MINNESOTA MINING AND MANUFACTURING COMPANY, was and is a Delaware corporation with its principal place of business in Minnesota. At all times material hereto, 3M COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, or products fraudulently marketed to prevent asbestos exposure including, but not limited to, 3M masks and tape and 3M asbestos-containing products, including but not limited to

auto body sealer. 3M COMPANY is sued as a Product Defendant. Plaintiffs' claims against 3M COMPANY arise out of this Defendant's business activities in the State of South Carolina.

23. Defendant, **ACCEL PERFORMANCE GROUP LLC**, f/k/a PRESTOLITE PERFORMANCE LLC, successor to HAYES PERFORMANCE BRAKES, was and is a Delaware limited liability company with its principal place of business in Kentucky. At all times material hereto, ACCEL PERFORMANCE GROUP LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Hayes performance brakes. ACCEL PERFORMANCE GROUP LLC is sued as a Product Defendant. Plaintiffs' claims against ACCEL PERFORMANCE GROUP LLC arise out of this Defendant's business activities in the State of South Carolina.

24. Defendant, **ADVANCE AUTO PARTS, INC.**, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, ADVANCE AUTO PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, clutches, and gaskets. ADVANCE AUTO PARTS, INC. is sued as a Product Defendant. Plaintiffs' claims against ADVANCE AUTO PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

25. Defendant, **AMERICAN HONDA MOTOR CO., INC.**, was and is a California corporation with its principal place of business in California. At all times material hereto, AMERICAN HONDA MOTOR CO., INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited

to, asbestos-containing friction products. AMERICAN HONDA MOTOR CO., INC. is sued as a Product Defendant. Plaintiffs' claims against AMERICAN HONDA MOTOR CO., INC. arise out of this Defendant's business activities in the State of South Carolina.

26. Defendant, **ATLAS ASBESTOS CO**, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS ASBESTOS CO mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers. ATLAS ASBESTOS CO is sued as a Product Defendant. Plaintiffs' claims against ATLAS ASBESTOS CO arise out of this Defendant's business activities in the State of South Carolina.

27. Defendant, **ATLAS TURNER, INC.**, as successor to ATLAS ASBESTOS CO, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS TURNER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers. ATLAS TURNER, INC. is sued as a Product Defendant. Plaintiffs' claims against ATLAS TURNER, INC. arise out of this Defendant's business activities in the State of South Carolina.

28. Defendant, **AUTOZONE, INC.**, was and is a Nevada corporation with its principal place of business in Tennessee. At all times material hereto, AUTOZONE, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction

products. AUTOZONE, INC. is sued as a Product Defendant. Plaintiffs' claims against AUTOZONE, INC. arise out of this Defendant's business activities in the State of South Carolina.

29. Defendant, **BAHNSON, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BAHNSON, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. BAHNSON, INC. is sued as a Product Defendant. BAHNSON, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against BAHNSON, INC. arise out of this Defendant's business activities in the State of South Carolina.

30. Defendant, **BEATY INVESTMENTS, INC.**, f/k/a GUY M. BEATY & CO., was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BEATY INVESTMENTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. BEATY INVESTMENTS, INC. is sued as a Product Defendant. BEATY INVESTMENTS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of

asbestos. Plaintiffs' claims against BEATY INVESTMENTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

31. Defendant, **BELDEN INC.**, d/b/a BELDEN 2010 INC., was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, BELDEN INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing wires, cables, panels, and electrical controls. BELDEN INC. is sued as a Product Defendant. Plaintiffs' claims against BELDEN INC. arise out of this Defendant's business activities in the State of South Carolina.

32. Defendant, **BELDEN WIRE & CABLE COMPANY**, was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, BELDEN WIRE & CABLE COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing wires, cables, panels, and electrical controls. BELDEN WIRE & CABLE COMPANY is sued as a Product Defendant. Plaintiffs' claims against BELDEN WIRE & CABLE COMPANY arise out of this Defendant's business activities in the State of South Carolina.

33. Defendant, **BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC**, f/k/a BRIDGESTONE FIRESTONE NORTH AMERICAN TIRE, LLC, was and is a Delaware limited liability company with its principal place of business in Tennessee. At all times material hereto, BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment,

including, but not limited to, asbestos-containing tires and friction products. BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC is sued as a Product Defendant. Plaintiffs' claims against BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC arise out of this Defendant's business activities in the State of South Carolina.

34. Defendant, **CAROLINA TOOL COMPANY**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, CAROLINA TOOL COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, clutches, and gaskets, and based upon information and belief Carolina Tool Company was and is an authorized NAPA dealer. CAROLINA TOOL COMPANY is sued as a Product Defendant. Plaintiffs' claims against CAROLINA TOOL COMPANY arise out of this Defendant's business activities in the State of South Carolina.

35. Defendant, **COPELAND CORPORATION LLC**, was and is a Delaware limited liability company with its principal place of business in Ohio. At all times material hereto, COPELAND CORPORATION LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Copeland compressors. COPELAND CORPORATION LLC is sued as a Product Defendant. Plaintiffs' claims against COPELAND CORPORATION LLC arise out of this Defendant's business activities in the State of South Carolina.

36. Defendant, **COVIL CORPORATION**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, COVIL CORPORATION manufactured, processed, imported, converted, compounded, supplied,

installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. COVIL CORPORATION is sued as a Product Defendant. COVIL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Covil Corporation, exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against COVIL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

37. Defendant, **DANIEL INTERNATIONAL CORPORATION**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, DANIEL INTERNATIONAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DANIEL INTERNATIONAL CORPORATION is sued as a Product Defendant. DANIEL INTERNATIONAL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against DANIEL INTERNATIONAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

38. Defendant, **DAVIS MECHANICAL CONTRACTORS, INC.**, was a South Carolina corporation with its principal place of business in North Carolina. At all times material

hereto, DAVIS MECHANICAL CONTRACTORS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DAVIS MECHANICAL CONTRACTORS, INC. is sued as a Product Defendant. DAVIS MECHANICAL CONTRACTORS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Davis Mechanical Contractors, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against DAVIS MECHANICAL CONTRACTORS, INC. arise out of this Defendant's business activities in the State of South Carolina.

39. Defendant, **DCO LLC**, individually and as successor-in-interest to VICTOR GASKET MANUFACTURING COMPANY and alter-ego of REINZ WISCONSIN GASKET, LLC, was and is a Virginia limited liability company with its principal place of business in Tennessee. At all times material hereto, DCO LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Victor gaskets. DCO LLC is sued as a Product Defendant. Plaintiffs' claims against DCO LLC arise out of this Defendant's business activities in the State of South Carolina.

40. Defendant, **EATON CORPORATION**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, EATON CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced,

repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Spicer brakes, Eaton brakes, and Cutler Hammer electrical products. EATON CORPORATION is sued as a Product Defendant. Plaintiffs' claims against EATON CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

41. Defendant, **ELLINGTON INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, ELLINGTON INSULATION COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. ELLINGTON INSULATION COMPANY, INC. is sued as a Product Defendant. ELLINGTON INSULATION COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Ellington Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against ELLINGTON INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

42. Defendant, **ENSTAR HOLDINGS (US), LLC** f/k/a Enstar Holdings (US), Inc., successor to REINZ WISCONSIN GASKET, LLC, is a Delaware limited liability company. At all times material hereto, ENSTAR HOLDINGS (US), LLC, as the successor-in-interest to ReinZ Wisconsin Gasket, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing

gaskets. ENSTAR HOLDINGS (US), INC. is sued as a Product Defendant. Plaintiffs' claims against ENSTAR HOLDINGS (US), INC. arise out of this Defendant's business activities in the State of South Carolina.

43. Defendant, **FISHER CONTROLS INTERNATIONAL LLC**, was and is a Delaware limited liability company with its principal place of business in Missouri. At all times material hereto, FISHER CONTROLS INTERNATIONAL LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Fisher valves and controls. FISHER CONTROLS INTERNATIONAL LLC is sued as a Product Defendant. Plaintiffs' claims against FISHER CONTROLS INTERNATIONAL LLC arise out of this Defendant's business activities in the State of South Carolina.

44. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL**, f/k/a/ FLUOR CORPORATION, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of

asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL arise out of this Defendant's business activities in the State of South Carolina.

45. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

46. Defendant, **FLUOR DANIEL SERVICES CORPORATION**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, FLUOR DANIEL SERVICES CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR DANIEL SERVICES CORPORATION is sued as a Product Defendant. FLUOR DANIEL SERVICES CORPORATION is also sued for the work it did at the various industrial sites in the southeastern

United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR DANIEL SERVICES CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

47. Defendant, **FLUOR ENTERPRISES, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR ENTERPRISES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR ENTERPRISES, INC. is sued as a Product Defendant. FLUOR ENTERPRISES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against FLUOR ENTERPRISES, INC. arise out of this Defendant's business activities in the State of South Carolina.

48. Defendant, **FORD MOTOR COMPANY**, was and is a Delaware corporation with its principal place of business in Michigan. At all times material hereto, FORD MOTOR COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. FORD MOTOR COMPANY is sued as a Product Defendant. Plaintiffs' claims against FORD MOTOR COMPANY arise out of this Defendant's business activities in the State of South Carolina.

49. Defendant, **GENERAL ELECTRIC COMPANY**, was and is a New York corporation with its principal place of business in Massachusetts. At all times material hereto, GENERAL ELECTRIC COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing electric panels and wires. GENERAL ELECTRIC COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENERAL ELECTRIC COMPANY arise out of this Defendant's business activities in the State of South Carolina.

50. Defendant, **GENERAL PARTS, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, GENERAL PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. GENERAL PARTS, INC. is sued as a Product Defendant. Plaintiffs' claims against GENERAL PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

51. Defendant, **GENUINE PARTS COMPANY**, d/b/a NAPA, was and is a Georgia corporation with its principal place of business in Georgia. At all times material hereto, GENUINE PARTS COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products, and based upon information and belief GENUINE PARTS COMPANY extended authorized dealership privileges to Carolina Tool Company. GENUINE

PARTS COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENUINE PARTS COMPANY arise out of this Defendant's business activities in the State of South Carolina.

52. Defendant, **GOODRICH CORPORATION**, f/k/a THE B. F. GOODRICH COMPANY, was and is a New York corporation with its principal place of business in North Carolina. At all times material hereto, GOODRICH CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Goodrich brakes. GOODRICH CORPORATION is sued as a Product Defendant. Plaintiffs' claims against GOODRICH CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

53. Defendant, **THE GOODYEAR TIRE & RUBBER COMPANY**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, THE GOODYEAR TIRE & RUBBER COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. THE GOODYEAR TIRE & RUBBER COMPANY is sued as a Product Defendant. Plaintiffs' claims against THE GOODYEAR TIRE & RUBBER COMPANY arise out of this Defendant's business activities in the State of South Carolina.

54. Defendant, **GRAYBAR ELECTRIC COMPANY, INC.**, was and is a New York corporation with its principal place of business in Missouri. At all times material hereto, GRAYBAR ELECTRIC COMPANY, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but

not limited to, asbestos-containing friction products. GRAYBAR ELECTRIC COMPANY, INC. is sued as a Product Defendant. Plaintiffs' claims against GRAYBAR ELECTRIC COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

55. Defendant, **HEAT & FROST INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, HEAT & FROST INSULATION COMPANY, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. HEAT & FROST INSULATION COMPANY, INC. is sued as a Product Defendant. HEAT & FROST INSULATION COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Heat & Frost Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against HEAT & FROST INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

56. Defendant, **HENNESSY INDUSTRIES, LLC**, f/k/a HENNESSY INDUSTRIES, INC., was and is a Delaware limited liability with its principal place of business in Tennessee. At all times material hereto, HENNESSY INDUSTRIES, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, and/or equipment designed to be used with asbestos-containing products, including, but not limited to, Ammco Arc grinders and brake drum lathe and asbestos-containing grinders. HENNESSY

INDUSTRIES, LLC is sued as a Product Defendant. Plaintiffs' claims against HENNESSY INDUSTRIES, LLC arise out of this Defendant's business activities in the State of South Carolina.

57. Defendant, **HONEYWELL INTERNATIONAL, INC.**, individually and as successor-in-interest to ALLIED SIGNAL, INC., as successor to BENDIX CORPORATION, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, HONEYWELL INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products, valves, and controls. HONEYWELL INTERNATIONAL, INC. is sued as a Product Defendant. Plaintiffs' claims against HONEYWELL INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

58. Defendant, **INDUSTRIAL HOLDINGS CORPORATION**, f/k/a THE CARBORUNDUM COMPANY, was and is a New York corporation with its principal place of business in New York. At all times material hereto, INDUSTRIAL HOLDINGS CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing grinding wheels and Black Magic Diamond. INDUSTRIAL HOLDINGS CORPORATION is sued as a Product Defendant. Plaintiffs' claims against INDUSTRIAL HOLDINGS CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

59. Defendant, **JOHNSON CONTROLS, INC.**, was and is a Wisconsin corporation with its principal place of business in Wisconsin. At all times material hereto, JOHNSON CONTROLS, INC. mined, manufactured, processed, imported, converted, compounded, supplied,

installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Johnson valves. JOHNSON CONTROLS, INC. is sued as a Product Defendant. Plaintiffs' claims against JOHNSON CONTROLS, INC. arise out of this Defendant's business activities in the State of South Carolina.

60. Defendant, **MERITOR, INC.**, f/k/a ARVINMERITOR, INC., successor-in-interest to the former automotive products segment of ROCKWELL INTERNATIONAL CORPORATION, was and is a Nevada corporation with its principal place of business in Michigan. At all times material hereto, MERITOR, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Rockwell brakes. MERITOR, INC. is sued as a Product Defendant. Plaintiffs' claims against MERITOR, INC. arise out of this Defendant's business activities in the State of South Carolina.

61. Defendant, **METROPOLITAN LIFE INSURANCE COMPANY**, a wholly-owned subsidiary of METLIFE INC., was and is a New York corporation with its principal place of business in New York. METROPOLITAN LIFE INSURANCE COMPANY has done and does business in the State of South Carolina. METROPOLITAN LIFE INSURANCE COMPANY is named as a conspiracy defendant.

62. Defendant, **MORSE TEC LLC**, f/k/a BORGWARNER MORSE TEC LLC, and successor-by-merger to BORG-WARNER CORPORATION, was and is a Delaware limited liability with its principal place of business in Michigan. At all times material hereto, MORSE TEC LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing

products, materials, or equipment, including, but not limited to, asbestos-containing brakes, including but not limited to Borg-Beck brakes, and clutches, including but not limited to Borg-Warner clutches and Rockford clutches. MORSE TEC LLC is sued as a Product Defendant. Plaintiffs' claims against MORSE TEC LLC arise out of this Defendant's business activities in the State of South Carolina.

63. Defendant, **MW CUSTOM PAPERS, LLC**, was and is a Delaware limited liability with its principal place of business in Georgia. At all times material hereto, MW CUSTOM PAPERS, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction paper. MW CUSTOM PAPERS, LLC is sued as a Product Defendant. Plaintiffs' claims against MW CUSTOM PAPERS, LLC arise out of this Defendant's business activities in the State of South Carolina.

64. Defendant, **OCCIDENTAL CHEMICAL CORPORATION**, as successor to DUREZ CORPORATION, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, OCCIDENTAL CHEMICAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing raw asbestos fibers. OCCIDENTAL CHEMICAL CORPORATION is sued as a Product Defendant. Plaintiffs' claims against OCCIDENTAL CHEMICAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

65. Defendant, **O'REILLY AUTO ENTERPRISES, LLC**, individually and as successor-in-interest, parent, alter ego and equitable trustee of KRAGEN AUTO PARTS, GRAND

AUTO SUPPLY, O'REILLY AUTO PARTS and CSK AUTO, INC., was and is a Delaware limited liability with its principal place of business in Missouri. At all times material hereto, O'REILLY AUTO ENTERPRISES, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. O'REILLY AUTO ENTERPRISES, LLC is sued as a Product Defendant. Plaintiffs' claims against O'REILLY AUTO ENTERPRISES, LLC arise out of this Defendant's business activities in the State of South Carolina.

66. Defendant, **O'REILLY AUTOMOTIVE STORES, INC.**, was and is a Missouri corporation with its principal place of business in Missouri. At all times material hereto, O'REILLY AUTOMOTIVE STORES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. O'REILLY AUTOMOTIVE STORES, INC. is sued as a Product Defendant. Plaintiffs' claims against O'REILLY AUTOMOTIVE STORES, INC. arise out of this Defendant's business activities in the State of South Carolina.

67. Defendant, **PARAMOUNT GLOBAL**, f/k/a VIACOMCBS INC., f/k/a CBS CORPORATION, a Delaware corporation f/k/a VIACOM, INC., successor-by-merger to CBS CORPORATION, a Pennsylvania corporation, f/k/a WESTINGHOUSE ELECTRIC CORPORATION, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PARAMOUNT GLOBAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Westinghouse control panels and electrical

equipment. PARAMOUNT GLOBAL is sued as a Product Defendant. Plaintiffs' claims against PARAMOUNT GLOBAL arise out of this Defendant's business activities in the State of South Carolina.

68. Defendant, **PFIZER, INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PFIZER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing talc. PFIZER, INC. is sued as a Product Defendant. Plaintiffs' claims against PFIZER, INC. arise out of this Defendant's business activities in the State of South Carolina.

69. Defendant, **PHARMACIA LLC**, f/k/a PHARMACIA CORPORATION f/k/a MONSANTO COMPANY, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, PHARMACIA LLC owned and/or controlled premises at which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to asbestos-containing products, equipment, and asbestos dust from said products at various facilities, including but not limited to, the Monsanto chemical plant in Greenwood, South Carolina. PHARMACIA LLC is sued as a Premises Defendant. Plaintiffs' claims against PHARMACIA LLC arise out of this Defendant's business activities in the State of South Carolina.

70. Defendant, **PIEDMONT INSULATION, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, PIEDMONT INSULATION, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites

throughout the southeastern United States. PIEDMONT INSULATION, INC. is sued as a Product Defendant. PIEDMONT INSULATION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Heat & Frost Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against PIEDMONT INSULATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

71. Defendant, **PNEUMO ABEX, LLC**, individually and as successor-in-interest to ABEX CORPORATION, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, PNEUMO ABEX, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. PNEUMO ABEX, LLC is sued as a Product Defendant. Plaintiffs' claims against PNEUMO ABEX, LLC arise out of this Defendant's business activities in the State of South Carolina.

72. Defendant, **REDCO CORPORATION**, f/k/a CRANE CO., was and is a Delaware corporation with its principal place of business in Connecticut. At all times material hereto, REDCO CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Cranite gaskets, Crane valves, and Crane pumps. REDCO CORPORATION is sued as a Product Defendant. Plaintiffs' claims against REDCO CORPORATION. Arise out of this Defendant's business activities in the State of South Carolina.

73. Defendant, **REINZ WISCONSIN GASKET LLC**, f/k/a and/or successor to REINZ WISCONSIN GASKET CO. and WISCONSIN GASKET & MANUFACTURING CO., a wholly owned subsidiary of DCO LLC, was and is a Delaware limited liability company with its principal place of business in Wisconsin. At all times material hereto, REINZ WISCONSIN GASKET LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. REINZ WISCONSIN GASKET LLC is sued as a Product Defendant. Plaintiffs' claims against REINZ WISCONSIN GASKET LLC arise out of this Defendant's business activities in the State of South Carolina.

74. Defendant, **RILEY POWER INC.**, f/k/a BABCOCK BORSIG POWER INC., f/k/a DB RILEY, INC., f/k/a RILEY STOKER CORPORATION, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, RILEY POWER INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Riley boilers. RILEY POWER INC. is sued as a Product Defendant. Plaintiffs' claims against RILEY POWER INC. arise out of this Defendant's business activities in the State of South Carolina.

75. Defendant, **ROCKWELL AUTOMATION INC.**, individually and as successor-in-interest ALLEN-BRADLEY COMPANY LLC, f/k/a ROCKWELL INTERNATIONAL CORPORATION, was and is a Delaware corporation with its principal place of business in Wisconsin. At all times material hereto, ROCKWELL AUTOMATION INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced,

repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Allen-Bradley electrical panels. ROCKWELL AUTOMATION INC. is sued as a Product Defendant. Plaintiffs' claims against ROCKWELL AUTOMATION INC. arise out of this Defendant's business activities in the State of South Carolina.

76. Defendant, **RUST ENGINEERING & CONSTRUCTION, INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST ENGINEERING & CONSTRUCTION, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST ENGINEERING & CONSTRUCTION, INC. is sued as a Product Defendant and a Design Defendant. RUST ENGINEERING & CONSTRUCTION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against RUST ENGINEERING & CONSTRUCTION, INC. arise out of this Defendant's business activities in the State of South Carolina.

77. Defendant, **RUST INTERNATIONAL INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST INTERNATIONAL INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of

facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST INTERNATIONAL INC. is sued as a Product Defendant and a Design Defendant. RUST INTERNATIONAL INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against RUST INTERNATIONAL INC. arise out of this Defendant's business activities in the State of South Carolina.

78. Defendant, **SAINT-GOBAIN ABRASIVES, INC.**, f/k/a NORTON COMPANY, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, SAINT-GOBAIN ABRASIVES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Norton grinding wheels. SAINT-GOBAIN ABRASIVES, INC. is sued as a Product Defendant. Plaintiffs' claims against SAINT-GOBAIN ABRASIVES, INC. arise out of this Defendant's business activities in the State of South Carolina.

79. Defendant, **SCHNEIDER ELECTRIC USA, INC.**, f/k/a SQUARE D COMPANY, was and is a Delaware corporation with its principal place of business in Massachusetts. At all times material hereto, SCHNEIDER ELECTRIC USA, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Square D electrical panels and components. SCHNEIDER ELECTRIC USA, INC. is sued as a Product

Defendant. Plaintiffs' claims against SCHNEIDER ELECTRIC USA, INC. arise out of this Defendant's business activities in the State of South Carolina.

80. Defendant, **SOUTHERN INSULATION, INC.**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, SOUTHERN INSULATION, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation at numerous jobsites throughout the southeastern United States. SOUTHERN INSULATION, INC. is sued as a Product Defendant. SOUTHERN INSULATION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Southern Insulation, Inc., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against SOUTHERN INSULATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

81. Defendant, **SPIRAX SARCO, INC.**, was and is a Delaware corporation with its principal place of business in South Carolina. At all times material hereto, SPIRAX SARCO, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Sarco steam traps. SPIRAX SARCO, INC. is sued as a Product Defendant. Plaintiffs' claims against SPIRAX SARCO, INC. arise out of this Defendant's business activities in the State of South Carolina.

82. Defendant, **UNION CARBIDE CORPORATION**, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, UNION CARBIDE CORPORATION mined, manufactured, processed, imported, converted, compounded,

supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers and asbestos-containing phenolic molding products. UNION CARBIDE CORPORATION is sued as a Product Defendant. Plaintiffs' claims against UNION CARBIDE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

83. Defendant, **VISTRA INTERMEDIATE COMPANY LLC**, individually and as successor-in-interest to CRSS INC., was and is a Delaware limited liability corporation with its principal place of business in Texas. At all times material hereto, VISTRA INTERMEDIATE COMPANY LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. VISTRA INTERMEDIATE COMPANY LLC is sued as a Product Defendant and a Design Defendant. VISTRA INTERMEDIATE COMPANY LLC is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against VISTRA INTERMEDIATE COMPANY LLC arise out of this Defendant's business activities in the State of South Carolina.

84. Defendant, **WESTROCK MWV, LLC**, as successor-in-interest to WESTVACO, was and is a Delaware limited liability company with its principal place of business in Georgia. At all times material hereto, WESTROCK MWV, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but

not limited to, asbestos-containing friction paper. WESTROCK MWV, LLC is sued as a Product Defendant. Plaintiffs' claims against WESTROCK MWV, LLC arise out of this Defendant's business activities in the State of South Carolina.

85. Defendant, **WIND UP, LTD.**, individually and as successor-in-interest to PIPE & BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO., was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, WIND UP, LTD. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. WIND UP, LTD. is sued as a Product Defendant. WIND UP, LTD. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Wind Up, Ltd., exposed tens of thousands of people, including the Plaintiff Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiffs' claims against WIND UP, LTD. arise out of this Defendant's business activities in the State of South Carolina.

86. Defendant, **ZF ACTIVE SAFETY US INC.**, f/k/a KELSEY-HAYES COMPANY, was and is a Delaware corporation with its principal place of business in Michigan. At all times material hereto, ZF ACTIVE SAFETY US INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Kelsey-Hayes brakes and clutches. ZF ACTIVE SAFETY US INC. is sued as a Product Defendant. Plaintiffs' claims against ZF ACTIVE SAFETY US INC. arise out of this Defendant's business activities in the State of South Carolina.

87. Plaintiff Melvin G. Welch was exposed through his father, Willis G. Welch, and also experienced further occupational exposure himself, as a result of each of them working with and around asbestos-containing equipment in their immediate vicinities at their work sites, including but not limited to, the premises of Defendant PHARMACIA LLC (collectively, hereinafter the “Premises Defendants”). All other Defendants, or their applicable predecessors in interest, (except for METROPOLITAN LIFE INSURANCE COMPANY) were engaged in the manufacture, sale, distribution and/or installation of asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action. At all times relevant to this action, the Defendants and the predecessors of the Defendants, for whose actions the Defendants are legally responsible, were engaged in the manufacture, sale, distribution, and/or installation of asbestos-containing products and raw materials for use in South Carolina and other states at times relevant to this action.

BACKGROUND FACTS

88. Plaintiff Melvin G. Welch brings this action for monetary damages as a result of contracting an asbestos-related disease.

89. Plaintiff Melvin G. Welch was diagnosed with mesothelioma on or about June 27, 2022.

90. Plaintiff Melvin G. Welch’s mesothelioma was caused by his exposure to asbestos during the course of his own work in various roles, including but not limited to instrumentation specialist helper and mechanic, as well as through the asbestos carried home on the clothing and person of his father during the years he lived in the family home.

91. During his work history, Plaintiff Melvin G. Welch was exposed to Defendants’ asbestos-containing products through his work as an instrumentation specialist helper for Daniel Construction at the Monsanto chemical plant in Greenwood, South Carolina in the mid-late 1960s.

Plaintiff performed a variety of tasks throughout the facilities where he worked, which included, but were not limited to, installing instrumentation on various forms of equipment. On these jobsites, he worked with and around asbestos-containing products, including but not limited to pipe and block insulation, cements, spray insulation, gaskets, packing materials, refractory motor and firebrick for use on turbines, boilers, pipes, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Plaintiff to asbestos and asbestos-dust.

92. During his work history, Plaintiff was further exposed through his work around other trades including but not limited to laborers, sheet metal workers, welders, pipefitters, boilermakers, insulators, electricians, and maintenance mechanics. Plaintiff worked near and closely to a variety of tradesmen working on asbestos-containing pipe and block insulation, cements, spray insulation, gaskets, packing material, refractory motor and firebrick for use on turbines, boilers, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Plaintiff to asbestos and asbestos dust.

93. During his work history, Plaintiff was further exposed to Defendants' asbestos-containing products through his work as an automobile mechanic at various jobsites located in South Carolina from approximately the late 1970s to the mid-late 2000s. Plaintiff worked as a mechanic performing a variety of tasks including but not limited to preventative maintenance and repair work of engines, transmissions, shocks, exhaust, clutches, gaskets, and brakes. He was also required to clean the repair bays, which involved sweeping asbestos dust without any protection. All of these activities exposed Plaintiff to asbestos.

94. Through his work as a mechanic, Plaintiff worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-

containing products and other asbestos-containing materials manufactured, sold, supplied and/or distributed by Defendants identified above.

95. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at K-Mart in Greenwood, South Carolina from approximately the late 1970s to the late 1980s.

96. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at M&M Tire in Greenwood, South Carolina from approximately the late 1980s to the mid 1990s.

97. Plaintiff was exposed to Defendants' asbestos-containing products while employed as a mechanic at Western Auto in Greenwood, South Carolina from approximately the mid 1990s to the mid-late 2000s.

98. Plaintiff also was exposed to Defendants' asbestos-containing friction products during various times throughout his life while performing maintenance and changing the brakes, clutches, and gaskets on his personal vehicles and the vehicles of his friends and family throughout South Carolina from approximately the early 1970s to the present. These activities exposed Plaintiff to asbestos.

99. During the course of Plaintiff Melvin G. Welch's employment at the location(s) mentioned above, during other occupational work projects and in other ways, Plaintiff was exposed to and inhaled, ingested, or otherwise absorbed asbestos dust and fibers emanating from certain products he was working around.

100. Plaintiff Melvin G. Welch was further exposed as a result of his father Willis G. Welch's employment for Daniel Construction as a welder at the Monsanto chemical plant in Greenwood, South Carolina from approximately the mid to the late 1960s. Plaintiff's father performed a variety of tasks throughout the facilities, and was further exposed through his work

around various other trades, including, but not necessarily limited to, premises workers and other maintenance workers, insulators, pipefitters, welders, boilermakers, electricians, and others who installed and removed asbestos materials.

101. While employed at the Monsanto chemical plant in Greenwood, South Carolina, Plaintiff's father Willis G. Welch wore his own clothes to work, was exposed to asbestos dust and fibers that he brought home on his work clothes, fell off in his vehicle and were on his body including his hair, that distributed and re-entrained in his vehicle and home which caused Plaintiff Melvin G. Welch to be exposed to said asbestos dust in sufficient amounts as to cause him to develop mesothelioma.

102. From approximately the early 1960s to the early 1970s, Plaintiff Melvin G. Welch was exposed to asbestos dust and fibers from products, services, and goods manufactured, distributed and/or sold by Defendants for use at Plaintiff's father Willis G. Welch's jobsites which Plaintiff came in contact with off premises by contact with his father's work clothes, personal possessions and vehicle. Plaintiff's exposure to asbestos dust and fibers occurred through his contact with his father's work clothing and person when greeting him at the end of his workday, through spending time in his father's vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their home.

103. Plaintiff Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

104. Plaintiffs and Plaintiff Melvin G. Welch's father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

105. Plaintiffs are informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

106. As a direct and proximate result of the conduct as alleged within, Plaintiff Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

107. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Melvin G. Welch has incurred, and will incur, liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Melvin G. Welch's medical treatment is ascertained.

108. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiffs incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs request leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiffs Complain of Defendants for a Cause of Action for Negligence Alleging as Follows:

109. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

110. At all times herein mentioned, each of the named Defendants were an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products.

111. At all times herein mentioned, Defendants and/or their “alternate entities” singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, assembled, distributed, leased, bought, offered for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products, in that said products caused personal injuries to Plaintiff Melvin G. Welch and

others similarly situated, (hereinafter collectively called “exposed persons”), while being used for their intended purpose and in a manner that was reasonably foreseeable.

112. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos and asbestos-containing products from causing Plaintiff Melvin G. Welch’s mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff’s lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their “alternate entities.” Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or their “alternate entities.” The gravity of the potential harm resulting from the use of Defendants’ asbestos or asbestos-containing products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Plaintiff Melvin G. Welch and his father Willis G. Welch. Defendants and/or their “alternate entities” had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants, each of them, breached said duty of due care.

113. Defendants and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and asbestos-containing products would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other

applications, including, but not limited to grinding sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Plaintiff Melvin G. Welch and his father Willis G. Welch, would use or be in proximity to and exposed to said asbestos fibers.

114. At all times relevant, Defendants and/or their “alternate entities” were aware of their asbestos and asbestos-containing products’ defect but failed to adequately warn Plaintiff Melvin G. Welch, Plaintiff’s family members or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed to recall or retrofit their products. A reasonable manufacturer, distributor, or seller of Defendants’ products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

115. Plaintiff Melvin G. Welch, Plaintiff’s family members and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein in a manner that was reasonably foreseeable. Plaintiff’s and his father Willis G. Welch’s exposure to asbestos and asbestos-containing products occurred at various locations as set forth in this Complaint.

116. Plaintiff Melvin G. Welch suffers from mesothelioma, a cancer related to exposure to asbestos and asbestos-containing products. Plaintiff Melvin G. Welch and his father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury or disease.

117. Defendants’ conduct and defective products as described in this cause of action were a direct cause of Plaintiff Melvin G. Welch’s injuries, and all damages thereby sustained by

Plaintiff Melvin G. Welch. Plaintiffs therefore seek all compensatory damages in order to make them whole, according to proof.

118. Furthermore, the conduct of Defendants and/or their “alternate entities” in continuing to market and sell products which they knew were dangerous to Plaintiff Melvin G. Welch and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Plaintiff Melvin G. Welch and others similarly situated.

119. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, Defendants and/or their “alternate entities” did so with conscious disregard for the safety of “exposed persons” who came in contact with asbestos and asbestos-containing products, in that Defendants and/or their “alternate entities” had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, asbestosis, mesothelioma, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

120. Defendants and their “alternate entities” were aware that members of the general public and other “exposed persons,” who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products, could

cause injury, and Defendants and their “alternate entities,” each of them, knew that members of the general public and other “exposed persons,” who came in contact with asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact said exposure was extremely hazardous to health and human life.

121. The above-referenced conduct of Defendants and their “alternate entities,” was motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing, uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Defendants, their “alternate entities,” and each of them consciously disregarded the safety of “exposed persons” in pursuit of profit. Defendants were consciously willing and intended to permit asbestos and asbestos-containing products to cause injury to “exposed persons” without warning them of the potential hazards and further induced persons to work with and be exposed thereto, including Plaintiff Melvin G. Welch.

122. Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos containing-products, and products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Defendants and/or their “alternate entities” further failed to adequately warn of the risks to which Plaintiff and others similarly situated were exposed.

123. Defendants and/or their “alternate entities” are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their “alternate entities” as set forth herein.

124. The herein-described conduct of Defendants and their “alternate entities,” was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiffs, for the sake of example and by way of punishing said Defendants, seek punitive damages according to proof against all defendants.

FOR A SECOND CAUSE OF ACTION

(Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

125. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

126. Plaintiff Melvin G. Welch has suffered from mesothelioma, a cancer related to exposure to asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Plaintiff Melvin G. Welch was not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

127. The Products Defendants’ conduct and defective products as described above were a direct cause of Plaintiff Melvin G. Welch’s injuries, and the injuries and damages thereby sustained by Plaintiffs.

128. Furthermore, the Defendants’ conduct and that of their “alternate entities” in continuing to market and sell products which they knew were dangerous to Plaintiff Melvin G. Welch and the public without adequate warnings or proper use instructions, was done in a

conscious disregard and indifference to the safety and health of Plaintiff Melvin G. Welch and others similarly situated.

129. Defendants and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling, “exposed persons,” including Plaintiff, would use or be in proximity to and exposed to said asbestos fibers.

130. Plaintiff Melvin G. Welch, Plaintiff’s family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, referred to herein in a manner that was reasonably foreseeable. Plaintiff Melvin G. Welch’s exposure to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products occurred at various locations as set forth in this Complaint.

131. Defendants and/or their “alternate entities” knew and intended that the above-referenced asbestos and asbestos-containing products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

132. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing

product. Said alternatives would have prevented Defendants' asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiff Melvin G. Welch's mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff's lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products of Defendants and/or their "alternate entities." The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing products, and the likelihood such harm would occur, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

133. The defect existed in the said products at the time they left the possession of defendants and/or their "alternate entities," and each of them. Said products were intended to reach the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including mesothelioma, asbestosis, other lung damage, and cancer to "exposed persons," including Plaintiff Melvin G. Welch herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

134. Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants' asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Said Defendants and/or their "alternate

entities" further failed to adequately warn of the risks to which Plaintiff Melvin G. Welch and others similarly situated were exposed.

135. Defendants' defective products as described above were a direct cause of Plaintiff Melvin G. Welch's injuries, and the damages thereby sustained.

136. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, Defendants and/or their "alternate entities," and each of them, did so with conscious disregard for the safety of Plaintiff Melvin G. Welch, his father Willis G. Welch, and other exposed persons who came in contact with the asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, in that Defendants and/or their "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, mesothelioma, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their "alternate entities."

137. Defendants and/or their "alternate entities" were aware that members of the general public and other exposed persons, who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products could cause injury. Defendants and/or their "alternate entities" further knew that members of the general

public and other exposed persons, who came in contact with asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact exposure was extremely hazardous to health and human life.

138. The above-referenced conduct of Defendants and/or their “alternate entities” motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products. Defendants and/or their “alternate entities” consciously disregarded the safety of “exposed persons” in their pursuit of profit and in fact consciously intended to cause injury to Plaintiff Melvin G. Welch and other exposed persons and induced persons to work with, be exposed to, and thereby injured by asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products.

139. Defendants are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of their “alternate entities” as set forth herein.

140. The conduct of said defendants, their “alternate entities,” and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons. Plaintiffs, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against all defendants.

141. At all times herein mentioned, each of the named Defendants, and/or their “alternate entities,” was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos and products manufactured for foreseeable use with asbestos products.

FOR A THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondeat Superior)

As a Third Distinct Cause of Action Against Defendants, Plaintiffs Bring this Third Cause of Action for Vicarious Liability of Product and Premises Defendants Based upon Respondeat Superior and Allege as Follows:

142. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

143. Prior to and during all relevant times Defendants and/or their “alternate entities” employed workers (hereinafter “employees”) in areas where defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff Melvin G. Welch and/or his father Willis G. Welch worked and/or spent time as alleged above.

144. At all times herein mentioned, Defendants’ employees frequently encountered asbestos-containing products, materials, and debris during the course and scope of their employment, and during their regular work activities negligently disturbed asbestos-containing materials to which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed.

145. Employees handling and disturbing asbestos-containing products in Plaintiff Melvin G. Welch's and his father Willis G. Welch's vicinity were the agents and employees of defendants and at all times relevant were subject to the control of Defendants with respect to their acts, labor, and work involving (a) the removal, transport, installation, cleaning, handling, and maintenance of asbestos-containing products, materials, and debris, and (b) the implementation of safety policies and procedures. Defendants controlled both the means and manner of performance of the work of their employees as described herein.

146. Employees handling and disturbing asbestos-containing products in Plaintiff Melvin G. Welch's, Plaintiff's family members and others' vicinity received monetary compensation from Defendants in exchange for the work performed and these employees performed the work in the transaction and furtherance of Defendants' businesses.

147. Harmful asbestos fibers were released during Defendants' employees' use, handling, breaking, or other manipulation of asbestos-containing products and materials.

148. Once released, the asbestos fibers contaminated the clothes, shoes, skin, hair, and body parts of those exposed, including Plaintiff Melvin G. Welch and his father Willis G. Welch, who also inhaled those fibers, and on the surfaces of work areas, where further activity caused the fibers to once again be released into the air and inhaled by Plaintiff Melvin G. Welch.

149. The asbestos and asbestos-containing materials were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air onto surrounding surfaces, and onto persons in the area. The inhalation of asbestos fibers can cause serious disease and death.

150. Defendants' employees' use, handling and manipulation of asbestos-containing materials, as required by their employment and occurring during the course and scope of their

employment, did in fact, cause personal injuries, including mesothelioma and other lung damage, to exposed persons including Plaintiff Melvin G. Welch.

151. Defendants' employees were negligent in their use, handling and manipulation of said products in that they failed to isolate their work with asbestos and/or to suppress asbestos fibers from being released into the air and surrounding areas. They also failed to take appropriate steps to learn how to prevent exposure to asbestos, failed to warn and/or adequately warn Plaintiff and his father Willis G. Welch that he was being exposed to asbestos, failed to adequately warn Plaintiff Melvin G. Welch and his father Willis G. Welch of the harm associated with his exposure to asbestos, and provide him with protection to prevent his inhalation of asbestos.

152. Defendants' employees knew or should have known that failure to take such steps would result in exposure to bystanders including Plaintiff Melvin G. Welch and his father Willis G. Welch.

153. Defendants' employees owed Plaintiff Melvin G. Welch and his father Willis G. Welch a duty to exercise due care and diligence in their activities while he was lawfully on the premises so as not to cause him harm.

154. Defendants' employees breached this duty of care as described above.

155. At all times mentioned, Plaintiff Melvin G. Welch and his father Willis G. Welch were unaware of the dangerous condition and unreasonable risk of personal injury created by Defendants' employees' use of and work with asbestos-containing products and materials.

156. As a direct result of the Defendants' employees conduct, Plaintiff Melvin G. Welch's and his father Willis G. Welch's exposure to asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products, each individually and together, caused severe and permanent injury to Plaintiff Melvin G. Welch and the damages and injuries as complained of herein by Plaintiffs.

157. The risks herein alleged and the resultant damages suffered by the Plaintiff Melvin G. Welch were typical of or broadly incidental to Defendants' business enterprises. As a practical matter, the losses caused by the torts of Defendants' employees as alleged were sure to occur in the conduct of Defendants' business enterprises. Nonetheless, Defendants engaged in, and sought to profit by, their business enterprises without exercising due care as described in this Complaint, which, on the basis of past experience, involved harm to others as shown through the torts of employees.

158. Based on the foregoing, Defendants as the employers of said employees are vicariously liable under the doctrine of respondeat superior for all negligent acts and omissions committed by their employees in the course and scope of their work that caused harm to Plaintiff Melvin G. Welch.

FOR A FOURTH CAUSE OF ACTION
(Premises Liability: Negligence as to Premises Owner/Contractor)

As a Fourth Distinct Cause of Action for General Negligence, Plaintiffs Complain of Defendants, and Allege as Follows:

159. Plaintiffs incorporate by reference, the preceding paragraphs as if fully set forth herein.

160. Prior to and during all relevant times, the Defendants and/or their "alternate entities" employed workers in areas where Defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff Melvin G. Welch and his father Willis G. Welch worked and/or spent time.

161. At all times herein mentioned, Defendants selected, supplied, and distributed asbestos-containing materials to their employees for use during their regular work activities, and said employees disturbed those asbestos-containing materials.

162. Defendants were negligent in selecting, supplying, distributing and disturbing the asbestos-containing products and in that said products were unsafe. Said products were unsafe because they released asbestos fibers and dust into air when used which would be inhaled by Plaintiff Melvin G. Welch and his father Willis G. Welch and settled onto their clothes, shoes, hands, face, hair, skin, and other body parts thus creating a situation whereby workers and bystanders including Plaintiff Melvin G. Welch would be exposed to dangerous asbestos dust beyond the present.

163. The asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products described herein were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air, and the inhalation of asbestos fibers causes serious disease and death. Here, the handling of the above-described asbestos-containing materials by Defendants' employees, as required by their employment and occurring during the course and scope of their employment, did, in fact, cause personal injuries, including mesothelioma, lung cancer and other lung damage, to exposed persons, including Plaintiffs.

164. At all times herein mentioned, Defendants knew or should have known that its employees and bystanders thereto, including Plaintiff Melvin G. Welch and his father Willis G. Welch, frequently encountered asbestos-containing products and materials during the course and scope of their work activities.

165. At all times herein mentioned, Defendants knew or should have known that the asbestos-containing materials encountered by its employees and bystanders thereto including Plaintiff Melvin G. Welch and his father Willis G. Welch, were unsafe in that harmful asbestos fibers were released during the use, handling, breaking, or other manipulation of asbestos-containing products and materials, and that once released, asbestos fibers can be inhaled, and can

alight on the clothes, shoes, skin, hair, and body parts of those exposed, where further activity causes the fibers to once again be released into the air where they can be inhaled, all of which causes serious disease and/or death.

166. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that absent adequate training and supervision, their employees and bystanders thereto including Plaintiff Melvin G. Welch and his father Willis G. Welch were neither qualified nor able to identify asbestos-containing products nor to identify the hazardous nature of their work activities involving asbestos-containing products.

167. At all times herein mentioned, Plaintiff Melvin G. Welch and his father Willis G. Welch were unaware of the dangerous condition and unreasonable risk of personal injury created by the presence and use of asbestos-containing products and materials.

168. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that workers and bystanders thereto, would bring dangerous dust home from the workplace and contaminate their family cars and homes, continuously exposing and potentially causing injury to others off the premises.

169. At all times herein mentioned, Defendants had a duty to use due care in the selection, supply, distribution and disturbance of asbestos-containing products and materials to its employees, to adequately instruct, train, and supervise their employees and to implement adequate safety policies and procedures to protect workers and persons encountering those workers, including Plaintiff Melvin G. Welch, from suffering injury or death as a result of the asbestos hazards encountered and created by the work of Defendants' employees.

170. Defendants' duties as alleged herein exist and existed independently of Defendants' duties to maintain their premises in reasonably safe condition, free from concealed hazards.

171. Defendants negligently selected, supplied, and distributed the asbestos-containing materials and failed to adequately train or supervise their employees to identify asbestos-containing products and materials; to ensure the safe handling of asbestos-containing products and materials encountered during the course of their work activities; and to guard against inhalation of asbestos fibers and against the inhalation of asbestos fibers by those who would come into close contact with them after they had used, disturbed, or handled, said asbestos-containing products and materials during the course and scope of their employment by Defendants.

172. Defendants failed to warn their employees and bystanders thereto, including Plaintiff Melvin G. Welch and his father Willis G. Welch, of the known hazards associated with asbestos and the asbestos-containing materials they were using and/or disturbing.

173. As a direct and proximate result of the conduct of Defendants in selecting, supplying, distributing and disturbing asbestos-containing materials or products manufactured for foreseeable use with asbestos products and failing to adequately train and supervise their employees and failing to adopt and implement adequate safety policies and procedures as alleged herein, Plaintiff Melvin G. Welch became exposed to and inhaled asbestos fibers, which was a substantial factor in causing Plaintiff Melvin G. Welch to develop asbestos-related disease mesothelioma, and to suffer all damages attendant thereto.

FOR A FIFTH CAUSE OF ACTION
(Negligence Per Se)

As a Fifth Distinct Cause of Action for Negligence Per Se, Plaintiffs Complain of Defendants, and Allege as Follows:

174. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

175. The actions of Defendants also constituted negligence per se.

176. Defendants violated federal and state regulations relating to asbestos exposure. Such violations constitute negligence per se or negligence as a matter of law. Further, each such violation resulted in dangerous and unlawful exposures to asbestos for Plaintiff Melvin G. Welch. Plaintiffs are not making any claims under federal law; instead, Plaintiffs are simply using the violation of federal standards as proof of liability on their state-law theories. Further, the reference to Federal regulations does not create a federal question. *See Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804 (1986). Any removal on this basis will be met with an immediate motion for remand and for sanctions.

177. The negligence per se of Defendants was a proximate cause of Plaintiffs' injuries.

FOR A SIXTH CAUSE OF ACTION
(Negligence as to Design Defendants)

As a Sixth Distinct Cause of Action for Negligence, Plaintiffs Complain of Design Defendants and Allege as Follows:

178. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

179. The work performed by the Design Defendants was defective in all, but not limited to, the following particulars:

- (a) In failing and neglecting to properly inspect the building for defects in the construction, design, and defects in the asbestos-containing products, materials and/or equipment.
- (b) In failing and neglecting to properly train employees in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (c) In failing and neglecting to properly supervise employees, contractors, subcontractors, and/or suppliers in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (d) In failing and neglecting to employ careful contractors and/or employees.

- (e) In failing and neglecting to properly install asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (f) In failing to properly install the asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (g) In failing to properly warn Plaintiff Melvin G. Welch and his father Willis G. Welch of dangers and risks associated with the conditions of the material and work product which was being installed for use by Plaintiff and others in his vicinity.
- (h) By such other failures as will be proved at trial.

All of which is contrary to one or more of workmanlike practice; the plans, specifications, and other contract documents; manufacturers' recommendations and instructions; trade custom and usage; and applicable building codes.

180. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiffs suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR A SEVENTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

As a Seventh Distinct Cause of Action for Negligent Design Services, Plaintiffs Complain of Design Defendants and Allege as Follows:

181. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

182. Design Defendants owed Plaintiff Melvin G. Welch and his father Willis G. Welch a duty to perform professional design services, including construction administration, in accordance with professional standards obtained in South Carolina for the delivery and performance of such services.

183. Design Defendants breached such professional standards in all, but not limited to, the following particulars:

- (a) In failing and neglecting to take reasonable care in the design of said building.
- (b) In failing and neglecting to properly design said building, to issue proper construction, to prevent continuous and substantial exposure to asbestos and/or asbestos-containing products.
- (c) In failing and neglecting to properly supervise the construction of said building.
- (d) In failing and neglecting to properly and reasonably design said building to eliminate exposure to asbestos and/or asbestos-containing products, including but not limited to asbestos-containing insulation.
- (e) In negligently specifying the use of inappropriate, improper and/or defective and deficient building systems, materials, and components, including but not limited to asbestos-containing insulation.
- (f) By such other failures as will be proved at trial.

184. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiffs have suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR AN EIGHTH CAUSE OF ACTION
(Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314)

As an Eighth Distinct Cause Of Action for Breach of Implied Warranties, Plaintiffs Complain of Defendants and Allege as Follows:

185. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

186. Each of the Defendants and/or their “alternate entities” impliedly warranted that their asbestos materials or asbestos-containing products were of good and merchantable quality and fit for their intended use.

187. The implied warranty made by the Defendants, and/or their alter egos, and/or their “alternate entities” that the asbestos and asbestos-containing products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Plaintiff Melvin G. Welch and his father Willis G. Welch carried out their duties and was as a result inhaled by Plaintiff Melvin G. Welch.

188. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to Defendants’ asbestos, asbestos-containing products, and/or products manufactured for foreseeable use with asbestos products and consequently developed mesothelioma, causing Plaintiffs to suffer all damages attendant thereto.

FOR A NINTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

For a Ninth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendants, and Allege as Follows:

189. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

190. That during, before and after Plaintiff Melvin G. Welch’s exposure to asbestos products manufactured by Defendants and/or their “alternate entities”, the Defendants and/or their “alternate entities” falsely represented facts, including the dangers of asbestos exposure to Plaintiff Melvin G. Welch and his father Willis G. Welch in the particulars alleged in the paragraphs above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiff Melvin G. Welch. At the same time of these misrepresentations, Defendants each knew

of the falsity of their representations and/or made the representations in reckless disregard of their truth or falsity.

191. The foregoing representations were material conditions precedent to Plaintiff Melvin G. Welch's continued exposure to asbestos-containing products. Defendants and/or their "alternate entities" each intended that Plaintiff Melvin G. Welch and his father Willis G. Welch act upon the representations by continuing his work around, and thereby exposure to, the asbestos products. Plaintiff Melvin G. Welch and his father Willis G. Welch were ignorant of the falsity of Defendants' representations and rightfully relied upon the representations.

192. As a direct and proximate result Plaintiff Melvin G. Welch's and his father Willis G. Welch's reliance upon Defendants' false representations, Plaintiffs have injury and damages as described herein.

FOR A TENTH CAUSE OF ACTION

(Conspiracy, Concert of Action – Defendant Metropolitan Life Insurance Company)

For a Tenth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendant Metropolitan Life Insurance Company, and Allege as Follows:

193. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

194. Beginning in the late 1920's, conspirators including Defendant Metropolitan Life Insurance Company ("Met Life"), as well as Johns-Manville, Raybestos-Manhattan and others, undertook a duty to conduct research on asbestos-related health problems and to inform the public about any health risks that could be associated therewith. In or about 1929, Met Life, through its agents and employees acting within the scope of their agency and employment, including but not limited to Dr. Anthony J. Lanza ("Lanza"), began an investigation of asbestos-related health hazards. In 1935, this study was altered by Lanza, with the full knowledge of Met Life, at the request of and in concert with the asbestos industry in order to wrongly influence the United States Public Health Service, the United States medical community and various state legislatures.

195. Thereafter, Defendant Met Life through the acts and omissions of its employees, most notably Lanza, undertook a series of activities with various members of the asbestos industry including but not limited to Johns-Manville, Raybestos-Manhattan/Raymark Industries, Inc., United States Gypsum, American Brake Blok/Abex, and others to suppress and misrepresent the dangers of exposure to asbestos dust to employees of Met Life's insureds and the general public and the medical community.

196. The conspirators through their agent, Lanza of Met Life, made a concerted effort to discredit and to terminate the experiments of certain scientists who were developing data of profound importance for the area of public health in relation to the cancer hazard which existed for workers and bystanders in the asbestos industry.

197. As a direct and proximate result of Met Life's intentional publication of deceptive and misleading medical data and information, and other conspiratorial acts and omissions, Defendant caused asbestos to be used in the occupational settings from which Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to and breathed asbestos dust which resulted in Plaintiff Melvin G. Welch's injuries. Defendant Met Life, through its agents and employees and officers, aided and abetted and gave substantial assistance to Johns-Manville and Raybestos-Manhattan in their tortious selling of asbestos products and voluntarily undertook a duty to warn the United States Public Health Service, the medical community, and others about the danger of asbestos and consciously and negligently misrepresented the dangers of asbestos to the United States Public Health Service, the medical community, and others, all to the ultimate harm of Plaintiffs herein.

198. Defendant Met Life rendered substantial aid and assistance to the manufacturers of asbestos-containing products to which Plaintiff Melvin G. Welch was exposed, and such assistance by Met Life aided and abetted the negligence and the marketing of unreasonably dangerous

asbestos-containing products by such manufacturers which proximately caused Plaintiff Melvin G. Welch's illness.

199. In both conducting tests and in publishing their alleged results, Met Life failed to exercise reasonable care to conduct or publish complete, adequate and accurate tests of the health effects of asbestos. Met Life also caused to be published intentionally false, misleading, inaccurate and deceptive information about the health effects of asbestos exposure.

200. Plaintiff Melvin G. Welch unwittingly and justifiably relied upon the thoroughness of Met Life's tests and information dissemination, the results of which Met Life published in leading medical journals.

201. As a direct and proximate contributing result of Met Life's failures to conduct or accurately publish adequate tests or disseminate accurate and truthful information, after undertaking to do so; (i) the risk of harm to Plaintiff Melvin G. Welch from asbestos exposure was increased, and (ii) Plaintiffs suffered the injuries described herein.

202. In failing to test fully and adequately for the adverse health effects from exposure to asbestos; in delaying the publication of such results; and in falsely editing such results as were obtained; in suppressing relevant medical inquiry and knowledge about those hazards to promote the sale and distribution of asbestos as a harmless product; and in collaborating with the other Defendants materially to understate the hazards of asbestos exposure, all for its own profit and gain, Met Life acted recklessly, wantonly, and in calculated disregard for the welfare of the general public, including Plaintiff.

203. Additionally and alternatively, as a direct and proximate result of Met Life's actions and omissions, Plaintiff and his father Willis G. Welch were caused to remain ignorant of all the dangers of asbestos resulting in Plaintiff Melvin G. Welch, his father Willis G. Welch, their co-workers, their wives and families, and the general public to be unaware of the true and full dangers

of asbestos, depriving Plaintiff Melvin G. Welch and his father Willis G. Welch of the opportunity to decide for themselves whether they wanted to take the risk of being exposed to asbestos, denied Plaintiff Melvin G. Welch and his father Willis G. Welch the opportunity to take precautions against the dangers of asbestos and proximately caused Plaintiff's' damages herein.

204. During the relevant time period the Plaintiff Melvin G. Welch and his father Willis G. Welch were exposed to and did inhale and/or ingest asbestos dust, fibers, and particles, which dust, fibers, and particles came from the asbestos or asbestos-containing products which were mined, milled, manufactured, fabricated, supplied, and/or sold by the Johns Manville and/or Raybestos/Raymark.

205. Defendant, Met Life, together with Manville, Raymark and other persons and entities, known and unknown at times relevant hereto, engages in a conspiracy or concert of action to inflict injury on the Plaintiff Melvin G. Welch, and to withhold, alter, suppress and misrepresent information about the health effects of asbestos exposure. One or more of said conspirators did cause tortious injury to the Plaintiff Melvin G. Welch or his wife in the course of or as a consequence of the conspiracy or concert of action. At least the following enumerated acts were undertaken by the conspirators in the course of and in furtherance of the conspiracy or concert of action:

- (a) In 1932, Met Life, through Lanza and others, assisted Manville with medical examinations of over 1,000 employees of Manville's factory in Manville, New Jersey. The report of this study shows that a large percentage of the employees suffered from asbestosis including employees not directly involved in the manufacturing process. This 1932 medical survey was not published in the medical literature and, therefore, was unavailable to scientists studying the issue of asbestos-related disease. Further collaboration between Manville and Met Life continued the cover-up.
- (b) Beginning in approximately 1934, Manville, through its agents, Vandiver Brown and Attorney J.C. Hobart, suggested to Lanza, Associate Director of Met Life, which was then insurer of Manville and Raymark, that Lanza

publish a study on asbestosis in which Lanza would affirmatively misrepresent material facts about the health consequences of asbestos exposure. This was accomplished through intentional deletion of Lanza's description of asbestosis as 'fatal' and through other selective editing that affirmatively misrepresent asbestosis as a disease process less serious than it actually is and was known to be. As a result, Lanza's study was published in the medical literature in this misleading fashion in 1935. The conspirators were motivated, in part, to effectuate this fraudulent misrepresentation and fraudulent nondisclosure by the desire to influence proposed legislation to regulate asbestos exposure and to provide a defense in lawsuits involving Manville, Raymark, and Met Life as insurer. Furthermore, upon information and belief, it is alleged that Met Life, at all times relevant hereto, had substantial monetary investments in Manville and Raymark, among other asbestos product manufacturers and distributors.

- (c) In 1936, the conspirators or some of them entered into an agreement with the Saranac Laboratories. Under this agreement, these conspirators acquired the power to decide what information Saranac could publish about asbestos disease and to control in what form such publications would occur. This agreement gave these conspirators power to affirmatively misrepresent the results of the work at Saranac, and also gave these conspirators power to material facts included in any study. On numerous occasions thereafter, the conspirators exercised their power to prevent Saranac scientists from disclosing material scientific data, resulting in numerous misstatements of fact being made at scientific meetings.
- (d) By November 1948, or earlier, Manville, Met Life (acting through Lanza), Raymark, and others decided to exert their influence to materially alter and misrepresent material facts about the substance of research started by Dr. Leroy Gardner at the Saranac Laboratories beginning in 1936. Dr. Gardner's research involved carcinogenicity of asbestos in mice and also included an evaluation of the health effects of asbestos on humans with a critical review of the then-existing standards of dust exposure for asbestos and asbestos products.
- (e) At a meeting on November 11, 1948, these conspirators and others intentionally and affirmatively determined that Dr. Gardner's work should be edited to specifically delete material facts about the cancer-causing propensities of asbestos and the health effects of asbestos on humans and they determined that only an edited version would be published. These conspirators thereby fraudulently misrepresented the risks of asbestos exposure to the public, in general, and to the class of persons exposed to asbestos, including the Plaintiff.
- (f) As a direct result of influence exerted by the above described conspirators, Dr. Arthur Vorwald published Dr. Gardner's edited work in the Journal of Industrial Hygiene, AMA Archives of Industrial Hygiene and Occupational

Health in 1951 in a form that stressed those portions of Dr. Gardner's work that the conspirators wished stressed, but which omitted references to human asbestosis and cancer, thereby fraudulently and affirmatively misrepresenting the extent of the risks. The conspirators affirmatively and deliberately disseminated this misleading Vorwald publication to universities, libraries, government officials, agencies and others.

- (g) Such action constituted a material affirmative misrepresentation of the material facts involved in Dr. Gardner's work and resulted in creating an appearance that inhalation of asbestos was a less serious health concern than Dr. Gardner's unedited work indicated.
- (h) For many decades, Met Life, individually, jointly and in conspiracy with Manville and Raymark, have been in possession of medical and scientific data, literature, and test reports which clearly indicated that the inhalation of asbestos dust and fibers resulting from the ordinary foreseeable use of said asbestos-containing products and/or machinery requiring or calling for the use of asbestos or asbestos-containing products were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly.
- (i) Despite the medical and scientific data, literature and test reports possessed by and available to Met Life, individually and in conspiracy with Manville and Raymark, Fraudulently, willfully and maliciously withheld, concealed and suppressed said medical and scientific data, literature and test reports regarding the risks of asbestosis, cancer, mesothelioma, and other illnesses and diseases from Plaintiff who using and being exposed to Manville or Raymark asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products; caused to be released, published and disseminated medical and scientific data, literature and test reports containing information and statements regarding the risks of asbestosis, cancer, mesothelioma and other illnesses and diseases, which Metropolitan, Manville and Raymark knew were either incorrect, incomplete, outdated and misleading; distorted the results of medical examinations conducted upon workers who were using asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products and being exposed to the inhalation of asbestos dust and fibers by falsely stating and/or concealing the nature and extent of the harm which workers suffered; and failed to adequately warn the Plaintiff of the dangers to which he was exposed when they knew of the dangers.
- (j) By the false and fraudulent representations, omissions, failures, and concealments set forth above, Met Life, Manville and Raymark, individually, jointly, and in conspiracy with each other, intended to induce the Plaintiff to rely upon said false and fraudulent representations, omissions, failures, and concealments, to continue to expose themselves to

the dangers inherent in the use of and exposure to their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products. Said misrepresentations were false, incomplete, and misleading and constitute negligent misrepresentations as defined by Sections 311 and 522 of the Restatement (Second) of Torts.

206. Plaintiff Melvin G. Welch and his father Willis G. Welch reasonably and in good faith relied upon the false and fraudulent representations, omissions, failures, and concealments made by Met Life, Manville, and Raymark regarding the nature of their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products.

207. As a direct and proximate result of the conspiracy and concert of action between Met Life, Manville and Raymark, the Plaintiff Melvin G. Welch and his father Willis G. Welch have been deprived of the opportunity of informed free choice and connection with the use of and exposure to Manville and Raymark's asbestos and asbestos-containing products, and therefore continued to work with and be exposed to the co-conspirator corporation's asbestos and asbestos-containing products and as a result brought home on his clothes, hair, shoes, and in his case asbestos dust or fibers contracted asbestos-related diseases and other conditions, and/or aggravated pre-existing conditions, as a result of which the Plaintiffs have been damaged.

FOR AN ELEVENTH CAUSE OF ACTION
(Loss of Consortium)

For an Eleventh Distinct Cause of Action for Loss of Consortium, Plaintiff Donna B. Welch Complains of Defendants, and Alleges as Follows:

208. Plaintiff incorporates by reference, the preceding paragraphs, where relevant.

209. Plaintiffs Melvin G. Welch and Donna B. Welch were married November 26, 1972 and at all times relevant to this action were husband and wife.

210. Prior to his injuries as alleged, Plaintiff Melvin G. Welch was able and did perform his spousal duties. As a proximate result thereof, subsequent to the injuries, Plaintiff Melvin G.

Welch has been unable to perform his spousal duties and the work and service usually performed in the care, maintenance and management of the family home. As a proximate result thereof, Plaintiff Donna B. Welch was deprived of the consortium of her spouse, including the performance of duties, all to Plaintiffs' damages, in an amount presently unknown to Plaintiffs but which will be proven at time of trial.

211. As a direct and proximate result of the acts of Defendants and/or their "alternate entities" and the severe injuries caused to Plaintiff Melvin G. Welch as set forth herein, Plaintiff's spouse and co-Plaintiff Donna B. Welch suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, society, comfort, companionship, love and affection of her spouse, and has suffered severe mental and emotional distress and general nervousness. Plaintiffs pray judgment against Defendants, their "alternate entities" and each of them, as hereinafter set forth.

FOR AN TWELFTH CAUSE OF ACTION
(Alter Ego as to DCo, LLC and Enstar Holdings (US), LLC)

For a Twelfth Distinct Cause of Action, Alter Ego Claims, Plaintiffs Complain of Defendants, and allege as follows:

212. Reniz Wisconsin Gasket, LLC, a dissolved Delaware limited liability company ("Reinz") recently, after more than a year of litigating another matter, and shortly before its deposition on its financial status, dissolved as a limited liability company and served counsel of record with a certificate of cancellation.

213. The facts leading up to that event are telling. On August 30, 2022, counsel for Reinz in that action indicated that they intended to produce a witness. Two days later, counsel for Reinz reversed course and announced that it would no longer produce a witness.¹

214. Then, on September 1, 2022, Reinz served that plaintiff with its Notice of Dissolution and Cancellation, both aspects of which were filed on August 30, 2022, the same day that counsel for Reinz was telling plaintiffs that it would produce a witness. A true and correct copy of the Notice of Dissolution and Cancellation is attached hereto as Exhibit 3.

215. The history of Reinz is intertwined with long time asbestos products manufactures.

Wisconsin Gasket & Manufacturing Co. was founded in Milwaukee, Wisconsin in 1943, and incorporated in Wisconsin in 1944 (“Wisconsin Gasket WI”). A second company, Wisconsin Gasket and Manufacturing Company was incorporated in Delaware in October 1980 (“Wisconsin Gasket DE”) At the time of its incorporation, Wisconsin Gasket DE was a wholly-owned subsidiary of the German Corporation Reinz Dichtungs GmbH. In 1981, Wisconsin Gasket DE purchased all of the assets of Wisconsin Gasket WI. In 1985, Wisconsin Gasket DE changed its name to Reinz Wisconsin Gasket Company. Reinz Wisconsin Gasket Company manufactured gaskets and electrical insulation products, some of which, historically, were asbestos containing. Effective January 1, 2006, Reinz Wisconsin Gasket Company merged into Reinz Wisconsin Gasket, LLC, a Delaware limited liability company, with Reinz Wisconsin Gasket LLC the surviving entity. Reinz Wisconsin Gasket LLC is currently a subsidiary of DCo, LLC.

See Discovery Responses of Reinz at 2 attached as Exhibit 4

216. Reinz, for decades, manufactured and sold asbestos containing engine and automobile gasketing and other materials into the stream of commerce. Asbestos causes mesothelioma, the disease from which Mr. Welch suffers. Welch has identified manufacturers of engine and vehicles to which Reinz, on information and belief, supplied gaskets as responsible, in part, for their injury and subsequent death. Reinz sold asbestos containing component parts to a who’s who of industry including, but not limited to, Dana Corporation (now known as DCo, LLC), General Motors, Cadillac, Chevrolet, and GMC. *See* Listing of Reinz Customers attached as Exhibit 5. Each of those companies manufactured products to which Mr. Welch has described work on.

217. On information and belief, DCo, LLC (“DCo”), the “parent” of Reinz, was formerly known as Dana Companies LLC. DCo, then named Dana Companies, LLC, was formed in or about 2007 as part of the bankruptcy proceedings of Dana Corporation. DCo was specifically formed to handle all of Dana Corporation’s asbestos liabilities. DCo and its subsidiary Reinz, were sold to Enstar Holdings (US), Inc. or one of its related companies (collectively “Enstar”) in or about 2016. Enstar² is now responsible for all of DCo’s and its subsidiaries’ liabilities, including Reinz³, for asbestos products. The person that signed the certificate of cancellation for Reinz as an “authorized person” is Sara Kirkpatrick. *See Certificate of Cancellation of Reinz* attached as Exhibit 1. Sara Kirkpatrick is in-house legal counsel to the Enstar Group.⁴ Indeed, Enstar admits that it is the “Ultimate Controlling Entity” for Reinz in the March 2020 Quarterly Statement of Providence Washington Insurance Company. *See 2020 Quarterly Insurance Statement* attached as Exhibit 2 at pp.11 and Schedule Y attached hereto.

218. Reinz, acting apparently without any say in the matter, as the puppet of DCo and Enstar has paid lawyers, all the while, claiming not to have any assets, has now, attempted to

² Enstar “is a market leader in completing legacy acquisitions, having acquired over 75 companies and portfolios since its formation in 2001. See Enstar Press Release attached as Exhibit 6. In other words, Enstar’s business model is to buy manufacturers’ legacy liabilities, e.g. asbestos, and profit from the insurance asset “float” (i.e. profit from investing retained insurance premiums and assets) until they are used to pay claims:

Enstar Annual Report at Exhibit 7 at p. 10 Enstar profits when pending and/or future claims against one of its acquired entities are cut off, whether by contrived dissolution or otherwise. Enstar is not discreet about its model: “An owner of a company with direct exposure to asbestos and environmental liabilities *may wish to dispose of their exposure to such liabilities...*”:

Enstar Annual Report Exhibit 7 at pp 9 and 186

³ Reinz Wisconsin Gasket LLC is a subsidiary of Enstar Holdings Ltd. *See* <https://sec.report/Document/1363829/000136382922000045/a2021q4-exx211listingofsub.htm> (last visited September 13, 2022); <https://www.sec.gov/Archives/edgar/data/1363829/000136382917000017/ex-211.htm> (last visited September 13, 2022).

⁴ *See* Linked In Profile of Sara Kirkpatrick at <https://www.linkedin.com/in/sara-kirkpatrick-4757637b/>

disappear from litigation vis-à-vis the signature of Enstar's in house counsel Sara Kirkpatrick. Enstar and DCo, by and through their actions have assumed the mantle of Reinz, and now, they must assume the liabilities. They have acted for and as the company with no regard to the desires or wishes of Reinz or their fiduciary duty to that company. The result is that they are the alter-egos of Reinz and are responsible for all of the debts it has and continues to incur.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or their "alternate entities" in an amount to be proved at trial, as follows:

1. For Plaintiffs' actual damages according to proof, including pain and suffering, mental distress, as well as medical, surgical and hospital bills;
2. For loss of income or earnings according to proof;
3. For loss of care, comfort and society;
4. For punitive damages according to proof;
5. For Plaintiffs' cost of suit herein;
6. For damages for breach of implied warranty according to proof;
7. For damages for fraudulent misrepresentation according to proof;
8. As this claim sounds in equity, Plaintiffs pray for a bench trial and a finding that DCo, LLC is the successor in interest to or alter-ego of Reinz Wisconsin Gasket, LLC;
9. As this claim sounds in equity, Plaintiffs pray for a bench trial and a finding that Enstar Holdings (US), LLC. is the successor in interest to or the alter-ego of Reinz Wisconsin Gasket, LLC;
10. For damages for conspiracy, concert of action (as to Defendant Metropolitan Life Insurance Company); and

11. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,

s/ Theile B. McVey

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ATTORNEYS FOR PLAINTIFFS

November 3, 2022
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

DONNA B. WELCH, individually and as
Personal Representative of the Estate of
MELVIN G. WELCH, deceased,

Plaintiff,

v.

ADVANCE AUTO PARTS, INC.

AMERICAN HONDA MOTOR CO., INC.

ATLAS ASBESTOS CO

ATLAS TURNER, INC.
as successor to ATLAS ASBESTOS CO, a
foreign company

BAHNSON, INC.

COVIL CORPORATION

DANIEL INTERNATIONAL
CORPORATION

DAVIS MECHANICAL CONTRACTORS,
INC.

ELLINGTON INSULATION COMPANY,
INC.

FLUOR CONSTRUCTORS
INTERNATIONAL
f/k/a FLUOR CORPORATION

FLUOR CONSTRUCTORS
INTERNATIONAL, INC.

FLUOR DANIEL SERVICES
CORPORATION

FLUOR ENTERPRISES, INC.

C/A NO. 2022-CP-40-03834

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

Living Mesothelioma

FOURTH AMENDED COMPLAINT

(Jury Trial Demanded)



GENERAL PARTS, INC.)
individually and as successor-in-interest to)
CARQUEST CORPORATION)
))
GOODRICH CORPORATION)
f/k/a THE B. F. GOODRICH COMPANY)
))
THE GOODYEAR TIRE & RUBBER)
COMPANY)
))
GRAYBAR ELECTRIC COMPANY, INC.)
))
HONEYWELL INTERNATIONAL, INC.)
individually and as successor-in-interest to)
ALLIED SIGNAL, INC., as successor to)
BENDIX CORPORATION)
))
MORSE TEC LLC)
f/k/a BORGWARNER MORSE TEC LLC, and)
successor-by-merger to BORG-WARNER)
CORPORATION)
))
OCCIDENTAL CHEMICAL)
CORPORATION)
as successor to DUREZ CORPORATION)
))
O'REILLY AUTOMOTIVE STORES, INC.)
))
PARAMOUNT GLOBAL)
f/k/a VIACOMCBS INC., f/k/a CBS)
CORPORATION, a Delaware corporation f/k/a)
VIACOM, INC., successor-by-merger to CBS)
CORPORATION, a Pennsylvania corporation,)
f/k/a WESTINGHOUSE ELECTRIC)
CORPORATION)
))
PNEUMO ABEX LLC)
successor-in-interest to ABEX CORPORATION)
))
REDCO CORPORATION)
f/k/a CRANE CO.)
))
REINZ WISCONSIN GASKET LLC)
f/k/a and/or successor to REINZ WISCONSIN)
GASKET CO. and WISCONSIN GASKET)
MANUFACTURING CO., a wholly owned)
subsidiary of DCO LLC)

**RUST ENGINEERING &
CONSTRUCTION, INC.**

RUST INTERNATIONAL INC.

SOUTHERN INSULATION, INC.

SPIRAX SARCO, INC.

UNION CARBIDE CORPORATION

WESTROCK MWV, LLC
individually and as successor-in-interest to
WESTVACO

ZF ACTIVE SAFETY US INC.
f/k/a KELSEY-HAYES COMPANY

Defendants.

PLAINTIFF'S FOURTH AMENDED COMPLAINT

Plaintiff, DONNA B. WELCH, individually and as Personal Representative of the Estate of MELVIN G. WELCH, deceased (hereinafter "Plaintiff"), sues the named Defendants for compensatory and punitive damages, by and through her attorneys, and comes before this court and alleges as follows:

GENERAL ALLEGATIONS

1. This action is brought pursuant to the Wrongful Death Act, S.C. Gen. Stat. 15-51-10 *et seq.*, as well as the Survival Action, S.C. Code Ann. § 15-5-90, for the wrongful death of the Decedent, MELVIN G. WELCH, on behalf of all persons entitled to recover damages.

2. Plaintiff's Decedent Melvin G. Welch (hereinafter, "Decedent") was diagnosed with mesothelioma caused by exposure to asbestos dust and fibers. This exposure occurred as a result of his father Willis G. Welch's work with and around asbestos-containing products, which

caused asbestos containing dust to cover his father's clothing, vehicle, and body which he brought home to Decedent Melvin G. Welch, who was then exposed to said asbestos dust and fibers. Decedent's exposure also occurred as a result of his own work with and around asbestos-containing products.

3. This Court has personal jurisdiction over Defendants because Plaintiff's claims arise from Defendants' conduct in:

- (a) Transacting business in this State, including the sale, supply, purchase, and/or use of asbestos and/or asbestos-containing products, within this State;
- (b) Contracting to supply services or things in the State;
- (c) Commission of a tortious act in whole or in part in this State;
- (d) Having an interest in, using, or possessing real property in this State; and/or
- (e) Entering into a contract to be performed in whole or in part by either party in this State.

4. Each Defendant, or its predecessors in interest, that manufactured, sold, and/or distributed asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action are referred to herein as "Product Defendants." At all times relevant to this action, the Product Defendants and the predecessors of the Product Defendants for whose actions the Product Defendants are legally responsible, were engaged in the manufacture, sale and distribution of asbestos-containing products and raw materials.

5. Each Defendant, or its predecessors in interest, that provided labor, materials, goods, and/or services as architects, consultants, engineers, draftsmen, technicians, surveyors, or otherwise in connection with the design and/or repairs at the work sites where Decedent Melvin G. Welch and his father Willis G. Welch experienced occupational exposure as a result of working

with and around others working with asbestos and/or asbestos-containing products, materials, or equipment, are referred to herein as the “Design Defendants.”

6. Plaintiff’s claims against the Product Defendants, as defined herein, arise out of Defendants’ purposeful efforts to serve directly or indirectly the market for their asbestos and/or asbestos-containing products in this State, either through direct sales or through utilizing an established distribution channel with the expectation that their products would be purchased and/or used within South Carolina.

7. Plaintiff’s claims against the Design Defendants, as defined herein, arise out of Defendants’, and/or Defendants’ employees’, direct and/or indirect purchase and use of asbestos and/or asbestos-containing products, materials, or equipment at the various industrial sites located in South Carolina where Decedent Melvin G. Welch experienced occupational exposure to lethal doses of asbestos as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment.

8. All of the named Defendants are corporations who purposefully availed themselves of the privilege of doing business in this State, and whose substantial and/or systematic business in South Carolina exposed Decedent Melvin G. Welch to asbestos in this State, subjecting them to the jurisdiction of the South Carolina courts pursuant to the South Carolina Long-Arm Statute and the United States Constitution.

9. In addition to being exposed through his own work, Decedent Melvin G. Welch was exposed to asbestos through asbestos dust and fibers brought home on his father’s work clothes, from asbestos dust in his father’s vehicle and asbestos dust on his father’s body including his hair, and from the dust being distributed and re-entrained in their home. His exposure to asbestos dust and fibers occurred through his father’s work clothing and person when greeting him at the end of his father’s workday, through spending time in his vehicle in which asbestos dust and fibers had been deposited, and

through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their family's home.

10. Decedent Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Decedent Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Decedent's injuries and damages.

11. Plaintiff, Decedent, and Decedent's father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

12. Both Decedent Melvin G. Welch and his father Willis G. Welch worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured and/or sold by the Product Defendants and used on property owned and controlled by the Premises Defendants. Decedent's father Willis G. Welch brought asbestos home with him on his person and clothing, which caused Decedent Melvin G. Welch to be exposed to asbestos.

13. Each of the named Defendants is liable for damages stemming from its own tortious conduct or the tortious conduct of an "alternate entity" as hereinafter defined. Defendants are liable for the acts of their "alternate entity" and each of them, in that there has been a corporate name change, Defendant is the successor by merger, by successor in interest, or by other acquisition resulting in a virtual destruction of Plaintiff's remedy against each such "alternate entity"; Defendants, each of them, have acquired the assets, product line, or a portion thereof, of each such "alternate entity"; such "alternate entities" have acquired the assets, product line, or a portion thereof of each such Defendant; Defendants, and each of them, caused the destruction of Plaintiff's remedy against each such "alternate entity"; each such Defendant has the ability to

assume the risk-spreading role of each such “alternate entity;” and that each such defendant enjoys the goodwill originally attached to each “alternate entity.”

DEFENDANT	ALTERNATE ENTITY
ATLAS TURNER, INC.	ATLAS ASBESTOS CO
FLUOR CONSTRUCTORS INTERNATIONAL	FLUOR CORPORATION
GENERAL PARTS, INC.	CARQUEST CORPORATION
GOODRICH CORPORATION	THE B. F. GOODRICH COMPANY
HONEYWELL INTERNATIONAL, INC.	ALLIED SIGNAL, INC. and BENDIX CORPORATION
MORSE TEC LLC	BORGWARNER MORSE TEC LLC and BORG-WARNER CORPORATION
OCCIDENTAL CHEMICAL CORPORATION	DUREZ CORPORATION
PARAMOUNT GLOBAL	VIACOMCBS INC., CBS CORPORATION, a Delaware corporation, VIACOM, INC., CBS CORPORATION, a Pennsylvania corporation, and WESTINGHOUSE ELECTRIC CORPORATION
PNEUMO ABEX, LLC	ABEX CORPORATION
REDCO CORPORATION	CRANE CO.
REINZ WISCONSIN GASKET LLC	REINZ WISCONSIN GASKET CO., WISCONSIN GASKET & MANUFACTURING CO., and DCO LLC
WESTROCK MWV, LLC	WESTVACO

DEFENDANT	ALTERNATE ENTITY
ZF ACTIVE SAFETY US INC.	KELSEY-HAYES COMPANY

14. Plaintiff has been informed and believes, and thereon alleges, that at all times herein mentioned, Defendants or their “alternate entities” were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and existing under and by virtue of the laws of the State of South Carolina, or the laws of some other state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

15. Plaintiff has been informed and believes, and thereon alleges, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

16. As a direct and proximate result of the conduct as alleged within, Decedent Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

17. As a direct and proximate result of the conduct as hereinafter alleged, Decedent Melvin G. Welch incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to

Plaintiff at this time. Plaintiff requests leave to supplement this Court and all parties accordingly when the true and exact cost of Decedent Melvin G. Welch's medical treatment is ascertained.

18. As a further direct and proximate result of the conduct as hereinafter alleged, Decedent Melvin G. Welch incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiff. Plaintiff prays leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

19. Plaintiff hereby disclaims each and every claim or cause of action which does or may arise from any United States armed forces service, or on any federal enclave. This disclaimer is not related solely to actions taken by or at the direction of a federal officer, but is, rather broader. Plaintiff is not making any claims and is not alleging any causes of action against any entity for any asbestos exposure of any kind which occurred as a result of Decedent Melvin G. Welch's United States armed forces service. Moreover, Plaintiff is further disclaiming each and every claim or cause of action arising from any exposure to asbestos as a result of the Decedent's presence on or at any federal enclave. Plaintiff further disclaims each and every claim or cause of action arising under the United States Constitution and under any Federal Law or Regulation. Finally, Plaintiff disclaims each and every claim or cause of action which may be asserted under federal admiralty or maritime law. Courts across the Country have found that such disclaimers are proper and within the province of the Plaintiff to disclaim. Any removal by any defendant on the basis of the disclaimed claims will result in a motion for sanctions and seeking attorneys' fees.

THE PARTIES

20. Plaintiff Donna B. Welch is currently residents of the State of South Carolina. Decedent Melvin G. Welch was exposed to asbestos as a result of his father Willis G. Welch's career at various job sites, including but not limited to, locations in South Carolina. Decedent was

exposed to asbestos dust and fibers taken home on his father, from asbestos dust in his father's vehicle, asbestos dust on his father's body including his hair, and from the dust being distributed and re-entrained. Decedent Melvin G. Welch was also exposed to asbestos during the course of his own career at various job sites, including but not limited to, locations in multiple states, including but not limited to South Carolina.

21. Defendant, **ADVANCE AUTO PARTS, INC.**, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, ADVANCE AUTO PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, clutches, and gaskets. ADVANCE AUTO PARTS, INC. is sued as a Product Defendant. Plaintiff's claims against ADVANCE AUTO PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

22. Defendant, **AMERICAN HONDA MOTOR CO., INC.**, was and is a California corporation with its principal place of business in California. At all times material hereto, AMERICAN HONDA MOTOR CO., INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. AMERICAN HONDA MOTOR CO., INC. is sued as a Product Defendant. Plaintiff's claims against AMERICAN HONDA MOTOR CO., INC. arise out of this Defendant's business activities in the State of South Carolina.

23. Defendant, **ATLAS ASBESTOS CO**, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS ASBESTOS CO mined, manufactured, processed, imported,

converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers. ATLAS ASBESTOS CO is sued as a Product Defendant. Plaintiff's claims against ATLAS ASBESTOS CO arise out of this Defendant's business activities in the State of South Carolina.

24. Defendant, **ATLAS TURNER, INC.**, as successor to ATLAS ASBESTOS CO, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS TURNER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers. ATLAS TURNER, INC. is sued as a Product Defendant. Plaintiff's claims against ATLAS TURNER, INC. arise out of this Defendant's business activities in the State of South Carolina.

25. Defendant, **BAHNSON, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BAHNSON, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. BAHNSON, INC. is sued as a Product Defendant. BAHNSON, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against BAHNSON, INC. arise out of this Defendant's business activities in the State of South Carolina.

26. Defendant, **COVIL CORPORATION**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, COVIL CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. COVIL CORPORATION is sued as a Product Defendant. COVIL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Covil Corporation, exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against COVIL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

27. Defendant, **DANIEL INTERNATIONAL CORPORATION**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, DANIEL INTERNATIONAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DANIEL INTERNATIONAL CORPORATION is sued as a Product Defendant. DANIEL INTERNATIONAL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's

claims against DANIEL INTERNATIONAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

28. Defendant, **DAVIS MECHANICAL CONTRACTORS, INC.**, was a South Carolina corporation with its principal place of business in North Carolina. At all times material hereto, DAVIS MECHANICAL CONTRACTORS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. DAVIS MECHANICAL CONTRACTORS, INC. is sued as a Product Defendant. DAVIS MECHANICAL CONTRACTORS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Davis Mechanical Contractors, Inc., exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against DAVIS MECHANICAL CONTRACTORS, INC. arise out of this Defendant's business activities in the State of South Carolina.

29. Defendant, **ELLINGTON INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, ELLINGTON INSULATION COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. ELLINGTON INSULATION COMPANY, INC. is sued as a Product Defendant. ELLINGTON INSULATION COMPANY,

INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Ellington Insulation Company, Inc., exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against ELLINGTON INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

30. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL**, f/k/a/ FLUOR CORPORATION, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against FLUOR CONSTRUCTORS INTERNATIONAL arise out of this Defendant's business activities in the State of South Carolina.

31. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation

and materials at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against FLUOR CONSTRUCTORS INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

32. Defendant, **FLUOR DANIEL SERVICES CORPORATION**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, FLUOR DANIEL SERVICES CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR DANIEL SERVICES CORPORATION is sued as a Product Defendant. FLUOR DANIEL SERVICES CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against FLUOR DANIEL SERVICES CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

33. Defendant, **FLUOR ENTERPRISES, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR ENTERPRISES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing

products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. FLUOR ENTERPRISES, INC. is sued as a Product Defendant. FLUOR ENTERPRISES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against FLUOR ENTERPRISES, INC. arise out of this Defendant's business activities in the State of South Carolina.

34. Defendant, **GENERAL PARTS, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, GENERAL PARTS, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. GENERAL PARTS, INC. is sued as a Product Defendant. Plaintiff's claims against GENERAL PARTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

35. Defendant, **GOODRICH CORPORATION**, f/k/a THE B. F. GOODRICH COMPANY, was and is a New York corporation with its principal place of business in North Carolina. At all times material hereto, GOODRICH CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Goodrich brakes. GOODRICH CORPORATION is sued as a Product Defendant. Plaintiff's claims against GOODRICH CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

36. Defendant, **THE GOODYEAR TIRE & RUBBER COMPANY**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, THE GOODYEAR TIRE & RUBBER COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. THE GOODYEAR TIRE & RUBBER COMPANY is sued as a Product Defendant. Plaintiff's claims against THE GOODYEAR TIRE & RUBBER COMPANY arise out of this Defendant's business activities in the State of South Carolina.

37. Defendant, **GRAYBAR ELECTRIC COMPANY, INC.**, was and is a New York corporation with its principal place of business in Missouri. At all times material hereto, GRAYBAR ELECTRIC COMPANY, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. GRAYBAR ELECTRIC COMPANY, INC. is sued as a Product Defendant. Plaintiff's claims against GRAYBAR ELECTRIC COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

38. Defendant, **HONEYWELL INTERNATIONAL, INC.**, individually and as successor-in-interest to ALLIED SIGNAL, INC., as successor to BENDIX CORPORATION, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, HONEYWELL INTERNATIONAL, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products, valves, and controls.

HONEYWELL INTERNATIONAL, INC. is sued as a Product Defendant. Plaintiff's claims against HONEYWELL INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

39. Defendant, **MORSE TEC LLC**, f/k/a BORGWARNER MORSE TEC LLC, and successor-by-merger to BORG-WARNER CORPORATION, was and is a Delaware limited liability with its principal place of business in Michigan. At all times material hereto, MORSE TEC LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing brakes, including but not limited to Borg-Beck brakes, and clutches, including but not limited to Borg-Warner clutches and Rockford clutches. MORSE TEC LLC is sued as a Product Defendant. Plaintiff's claims against MORSE TEC LLC arise out of this Defendant's business activities in the State of South Carolina.

40. Defendant, **OCCIDENTAL CHEMICAL CORPORATION**, as successor to DUREZ CORPORATION, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, OCCIDENTAL CHEMICAL CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing raw asbestos fibers. OCCIDENTAL CHEMICAL CORPORATION is sued as a Product Defendant. Plaintiff's claims against OCCIDENTAL CHEMICAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

41. Defendant, **O'REILLY AUTOMOTIVE STORES, INC.**, was and is a Missouri corporation with its principal place of business in Missouri. At all times material hereto, O'REILLY

AUTOMOTIVE STORES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. O'REILLY AUTOMOTIVE STORES, INC. is sued as a Product Defendant. Plaintiff's claims against O'REILLY AUTOMOTIVE STORES, INC. arise out of this Defendant's business activities in the State of South Carolina.

42. Defendant, **PARAMOUNT GLOBAL**, f/k/a VIACOMCBS INC., f/k/a CBS CORPORATION, a Delaware corporation f/k/a VIACOM, INC., successor-by-merger to CBS CORPORATION, a Pennsylvania corporation, f/k/a WESTINGHOUSE ELECTRIC CORPORATION, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PARAMOUNT GLOBAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Westinghouse control panels and electrical equipment. PARAMOUNT GLOBAL is sued as a Product Defendant. Plaintiff's claims against PARAMOUNT GLOBAL arise out of this Defendant's business activities in the State of South Carolina.

43. Defendant, **PNEUMO ABEX, LLC**, individually and as successor-in-interest to ABEX CORPORATION, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, PNEUMO ABEX, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. PNEUMO ABEX, LLC is sued as a Product Defendant. Plaintiff's claims against

PNEUMO ABEX, LLC arise out of this Defendant's business activities in the State of South Carolina.

44. Defendant, **REDCO CORPORATION**, f/k/a CRANE CO., was and is a Delaware corporation with its principal place of business in Connecticut. At all times material hereto, REDCO CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Cranite gaskets, Crane valves, and Crane pumps. REDCO CORPORATION is sued as a Product Defendant. Plaintiff's claims against REDCO CORPORATION. Arise out of this Defendant's business activities in the State of South Carolina.

45. Defendant, **REINZ WISCONSIN GASKET LLC**, f/k/a and/or successor to REINZ WISCONSIN GASKET CO. and WISCONSIN GASKET & MANUFACTURING CO., a wholly owned subsidiary of DCO LLC, was and is a Delaware limited liability company with its principal place of business in Wisconsin. At all times material hereto, REINZ WISCONSIN GASKET LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction products. REINZ WISCONSIN GASKET LLC is sued as a Product Defendant. Plaintiff's claims against REINZ WISCONSIN GASKET LLC arise out of this Defendant's business activities in the State of South Carolina.

46. Defendant, **RUST ENGINEERING & CONSTRUCTION, INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST ENGINEERING & CONSTRUCTION, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial

amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST ENGINEERING & CONSTRUCTION, INC. is sued as a Product Defendant and a Design Defendant. RUST ENGINEERING & CONSTRUCTION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against RUST ENGINEERING & CONSTRUCTION, INC. arise out of this Defendant's business activities in the State of South Carolina.

47. Defendant, **RUST INTERNATIONAL INC.**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, RUST INTERNATIONAL INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing thermal insulation and materials at numerous jobsites throughout the southeastern United States. RUST INTERNATIONAL INC. is sued as a Product Defendant and a Design Defendant. RUST INTERNATIONAL INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against RUST INTERNATIONAL INC. arise out of this Defendant's business activities in the State of South Carolina.

48. Defendant, **SOUTHERN INSULATION, INC.**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, SOUTHERN INSULATION, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing thermal insulation at numerous jobsites throughout the southeastern United States. SOUTHERN INSULATION, INC. is sued as a Product Defendant. SOUTHERN INSULATION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Southern Insulation, Inc., exposed tens of thousands of people, including the Decedent Melvin G. Welch and his father Willis G. Welch, to lethal doses of asbestos. Plaintiff's claims against SOUTHERN INSULATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

49. Defendant, **SPIRAX SARCO, INC.**, was and is a Delaware corporation with its principal place of business in South Carolina. At all times material hereto, SPIRAX SARCO, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Sarco steam traps. SPIRAX SARCO, INC. is sued as a Product Defendant. Plaintiff's claims against SPIRAX SARCO, INC. arise out of this Defendant's business activities in the State of South Carolina.

50. Defendant, **UNION CARBIDE CORPORATION**, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, UNION CARBIDE CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos

fibers and asbestos-containing phenolic molding products. UNION CARBIDE CORPORATION is sued as a Product Defendant. Plaintiff's claims against UNION CARBIDE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

51. Defendant, **WESTROCK MWV, LLC**, as successor-in-interest to WESTVACO, was and is a Delaware limited liability company with its principal place of business in Georgia. At all times material hereto, WESTROCK MWV, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing friction paper. WESTROCK MWV, LLC is sued as a Product Defendant. Plaintiff's claims against WESTROCK MWV, LLC arise out of this Defendant's business activities in the State of South Carolina.

52. Defendant, **ZF ACTIVE SAFETY US INC.**, f/k/a KELSEY-HAYES COMPANY, was and is a Delaware corporation with its principal place of business in Michigan. At all times material hereto, ZF ACTIVE SAFETY US INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Kelsey-Hayes brakes and clutches. ZF ACTIVE SAFETY US INC. is sued as a Product Defendant. Plaintiff's claims against ZF ACTIVE SAFETY US INC. arise out of this Defendant's business activities in the State of South Carolina.

BACKGROUND FACTS

53. Plaintiff Donna B. Welch, individually and as Personal Representative of the Estate of Melvin G. Welch, deceased, brings this action for monetary damages as a result of Decedent Melvin G. Welch contracting an asbestos-related disease and subsequently dying as a result.

54. Decedent Melvin G. Welch was diagnosed with mesothelioma on or about June 27, 2022.

55. Decedent Melvin G. Welch's mesothelioma was caused by his exposure to asbestos during the course of his own work in various roles, including but not limited to instrumentation specialist helper and mechanic, as well as through the asbestos carried home on the clothing and person of his father during the years he lived in the family home.

56. During his work history, Decedent Melvin G. Welch was exposed to Defendants' asbestos-containing products through his work as an instrumentation specialist helper for Daniel Construction at the Monsanto chemical plant in Greenwood, South Carolina in the mid-late 1960s. Decedent performed a variety of tasks throughout the facilities where he worked, which included, but were not limited to, installing instrumentation on various forms of equipment. On these jobsites, he worked with and around asbestos-containing products, including but not limited to pipe and block insulation, cements, spray insulation, gaskets, packing materials, refractory motor and firebrick for use on turbines, boilers, pipes, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Decedent to asbestos and asbestos-dust.

57. During his work history, Decedent was further exposed through his work around other trades including but not limited to laborers, sheet metal workers, welders, pipefitters, boilermakers, insulators, electricians, and maintenance mechanics. Decedent worked near and closely to a variety of tradesmen working on asbestos-containing pipe and block insulation,

cements, spray insulation, gaskets, packing material, refractory motor and firebrick for use on turbines, boilers, valves, steam traps, pumps, transformers, electrical equipment, compressors, generators, heaters, motors, and other industrial equipment. All of these activities exposed Decedent to asbestos and asbestos dust.

58. During his work history, Decedent was further exposed to Defendants' asbestos-containing products through his work as an automobile mechanic at various jobsites located in South Carolina from approximately the late 1970s to the mid-late 2000s. Decedent worked as a mechanic performing a variety of tasks including but not limited to preventative maintenance and repair work of engines, transmissions, shocks, exhaust, clutches, gaskets, and brakes. He was also required to clean the repair bays, which involved sweeping asbestos dust without any protection. All of these activities exposed Decedent to asbestos.

59. Through his work as a mechanic, Decedent worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured, sold, supplied and/or distributed by Defendants identified above.

60. Decedent was exposed to Defendants' asbestos-containing products while employed as a mechanic at K-Mart in Greenwood, South Carolina from approximately the late 1970s to the late 1980s.

61. Decedent was exposed to Defendants' asbestos-containing products while employed as a mechanic at M&M Tire in Greenwood, South Carolina from approximately the late 1980s to the mid 1990s.

62. Decedent was exposed to Defendants' asbestos-containing products while employed as a mechanic at Western Auto in Greenwood, South Carolina from approximately the mid 1990s to the mid-late 2000s.

63. Decedent also was exposed to Defendants' asbestos-containing friction products during various times throughout his life while performing maintenance and changing the brakes, clutches, and gaskets on his personal vehicles and the vehicles of his friends and family throughout South Carolina from approximately the early 1970s to the present. These activities exposed Decedent to asbestos.

64. During the course of Decedent Melvin G. Welch's employment at the location(s) mentioned above, during other occupational work projects and in other ways, Decedent was exposed to and inhaled, ingested, or otherwise absorbed asbestos dust and fibers emanating from certain products he was working around.

65. Decedent Melvin G. Welch was further exposed as a result of his father Willis G. Welch's employment for Daniel Construction as a welder at the Monsanto chemical plant in Greenwood, South Carolina from approximately the mid to the late 1960s. Decedent's father performed a variety of tasks throughout the facilities, and was further exposed through his work around various other trades, including, but not necessarily limited to, premises workers and other maintenance workers, insulators, pipefitters, welders, boilermakers, electricians, and others who installed and removed asbestos materials.

66. While employed at the Monsanto chemical plant in Greenwood, South Carolina, Decedent's father Willis G. Welch wore his own clothes to work, was exposed to asbestos dust and fibers that he brought home on his work clothes, fell off in his vehicle and were on his body including his hair, that distributed and re-entrained in his vehicle and home which caused Decedent Melvin G. Welch to be exposed to said asbestos dust in sufficient amounts as to cause him to develop mesothelioma.

67. From approximately the early 1960s to the early 1970s, Decedent Melvin G. Welch was exposed to asbestos dust and fibers from products, services, and goods manufactured,

distributed and/or sold by Defendants for use at Decedent's father Willis G. Welch's jobsites which Decedent came in contact with off premises by contact with his father's work clothes, personal possessions and vehicle. Decedent's exposure to asbestos dust and fibers occurred through his contact with his father's work clothing and person when greeting him at the end of his workday, through spending time in his father's vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their home.

68. Decedent Melvin G. Welch's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Decedent Melvin G. Welch's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Decedent's injuries and damages.

69. Plaintiff, Decedent, and Decedent's father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

70. Plaintiff is informed and believes, and thereon alleges, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

71. As a direct and proximate result of the conduct as alleged within, Decedent Melvin G. Welch suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

72. As a direct and proximate result of the conduct as hereinafter alleged, Decedent Melvin G. Welch incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiff at this time. Plaintiff requests leave to supplement this Court and all parties accordingly when the true and exact cost of Decedent Melvin G. Welch's medical treatment is ascertained.

73. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiff incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiff. Plaintiff requests leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiff Complains of Defendants for a Cause of Action for Negligence Alleging as Follows:

74. Plaintiff incorporates herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

75. At all times herein mentioned, each of the named Defendants were an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as "alternate entities," engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain

product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products.

76. At all times herein mentioned, Defendants and/or their “alternate entities” singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, assembled, distributed, leased, bought, offered for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products, in that said products caused personal injuries to Defendant Melvin G. Welch and others similarly situated, (hereinafter collectively called “exposed persons”), while being used for their intended purpose and in a manner that was reasonably foreseeable.

77. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos and asbestos-containing products from causing Defendant Melvin G. Welch’s mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Decedent’s lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their “alternate entities.” Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or their “alternate entities.” The gravity of the potential harm resulting from the use of Defendants’ asbestos or asbestos-containing products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality

in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Decedent Melvin G. Welch and his father Willis G. Welch. Defendants and/or their “alternate entities” had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants, each of them, breached said duty of due care.

78. Defendants and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and asbestos-containing products would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Decedent Melvin G. Welch and his father Willis G. Welch, would use or be in proximity to and exposed to said asbestos fibers.

79. At all times relevant, Defendants and/or their “alternate entities” were aware of their asbestos and asbestos-containing products’ defect but failed to adequately warn Decedent Melvin G. Welch, Decedent’s family members or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed to recall or retrofit their products. A reasonable manufacturer, distributor, or seller of Defendants’ products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

80. Decedent Melvin G. Welch, Decedent's family members and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein in a manner that was reasonably foreseeable. Decedent's and his father Willis G. Welch's exposure to asbestos and asbestos-containing products occurred at various locations as set forth in this Complaint.

81. Decedent Melvin G. Welch suffers from mesothelioma, a cancer related to exposure to asbestos and asbestos-containing products. Decedent Melvin G. Welch and his father Willis G. Welch were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury or disease.

82. Defendants' conduct and defective products as described in this cause of action were a direct cause of Decedent Melvin G. Welch's injuries, and all damages thereby sustained by Decedent Melvin G. Welch. Plaintiff therefore seeks all compensatory damages in order to make them whole, according to proof.

83. Furthermore, the conduct of Defendants and/or their "alternate entities" in continuing to market and sell products which they knew were dangerous to Decedent Melvin G. Welch and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Decedent Melvin G. Welch and others similarly situated.

84. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, Defendants and/or their "alternate

entities” did so with conscious disregard for the safety of “exposed persons” who came in contact with asbestos and asbestos-containing products, in that Defendants and/or their “alternate entities” had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, asbestosis, mesothelioma, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

85. Defendants and their “alternate entities” were aware that members of the general public and other “exposed persons,” who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products, could cause injury, and Defendants and their “alternate entities,” each of them, knew that members of the general public and other “exposed persons,” who came in contact with asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact said exposure was extremely hazardous to health and human life.

86. The above-referenced conduct of Defendants and their “alternate entities,” was motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing, uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Defendants, their “alternate entities,” and each of them consciously disregarded the safety of “exposed persons” in pursuit of profit.

Defendants were consciously willing and intended to permit asbestos and asbestos-containing products to cause injury to “exposed persons” without warning them of the potential hazards and further induced persons to work with and be exposed thereto, including Decedent Melvin G. Welch.

87. Decedent Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos containing-products, and products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Decedent Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Defendants and/or their "alternate entities" further failed to adequately warn of the risks to which Decedent and others similarly situated were exposed.

88. Defendants and/or their “alternate entities” are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their “alternate entities” as set forth herein.

89. The herein-described conduct of Defendants and their “alternate entities,” was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiff, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against all defendants.

FOR A SECOND CAUSE OF ACTION

(Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiff Complains of Defendants, and Alleges as Follows:

90. Plaintiff incorporates herein by reference, as though fully set forth herein, each of the preceding paragraphs.

91. Decedent Melvin G. Welch suffered from mesothelioma, a cancer related to exposure to asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Decedent Melvin G. Welch was not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

92. The Products Defendants' conduct and defective products as described above were a direct cause of Decedent Melvin G. Welch's injuries, and the injuries and damages thereby sustained by Plaintiff.

93. Furthermore, the Defendants' conduct and that of their "alternate entities" in continuing to market and sell products which they knew were dangerous to Decedent Melvin G. Welch and the public without adequate warnings or proper use instructions, was done in a conscious disregard and indifference to the safety and health of Decedent Melvin G. Welch and others similarly situated.

94. Defendants and/or their "alternate entities" knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, "rip-out," and other manipulation, resulting in the release of airborne

asbestos fibers, and that through such foreseeable use and/or handling, “exposed persons,” including Decedent, would use or be in proximity to and exposed to said asbestos fibers.

95. Decedent Melvin G. Welch, Decedent’s family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, referred to herein in a manner that was reasonably foreseeable. Decedent Melvin G. Welch’s exposure to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products occurred at various locations as set forth in this Complaint.

96. Defendants and/or their “alternate entities” knew and intended that the above-referenced asbestos and asbestos-containing products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

97. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Decedent Melvin G. Welch’s mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Decedent’s lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their “alternate entities.” Said alternatives were of comparable utility to the asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products of Defendants and/or their “alternate entities.” The gravity of the potential harm resulting from the use of Defendants’ asbestos or asbestos-containing products, and the likelihood such harm would occur, far outweighed any additional cost or

marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

98. The defect existed in the said products at the time they left the possession of defendants and/or their “alternate entities,” and each of them. Said products were intended to reach the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including mesothelioma, asbestosis, other lung damage, and cancer to “exposed persons,” including Decedent Melvin G. Welch herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

99. Decedent Melvin G. Welch, his father Willis G. Welch, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Decedent Melvin G. Welch, his father Willis G. Welch, or other exposed persons. Said Defendants and/or their "alternate entities" further failed to adequately warn of the risks to which Decedent Melvin G. Welch and others similarly situated were exposed.

100. Defendants’ defective products as described above were a direct cause of Decedent Melvin G. Welch’s injuries, and the damages thereby sustained.

101. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos, asbestos-containing products, and products manufactured for foreseeable use with

asbestos products, Defendants and/or their “alternate entities,” and each of them, did so with conscious disregard for the safety of Decedent Melvin G. Welch, his father Willis G. Welch, and other exposed persons who came in contact with the asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, in that Defendants and/or their “alternate entities” had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, mesothelioma, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

102. Defendants and/or their “alternate entities” were aware that members of the general public and other exposed persons, who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products could cause injury. Defendants and/or their “alternate entities” further knew that members of the general public and other exposed persons, who came in contact with asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact exposure was extremely hazardous to health and human life.

103. The above-referenced conduct of Defendants and/or their “alternate entities” motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing

for others, packaging and advertising of asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products. Defendants and/or their "alternate entities" consciously disregarded the safety of "exposed persons" in their pursuit of profit and in fact consciously intended to cause injury to Decedent Melvin G. Welch and other exposed persons and induced persons to work with, be exposed to, and thereby injured by asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products.

104. Defendants are liable for the fraudulent, oppressive, and malicious acts of their "alternate entities," and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of their "alternate entities" as set forth herein.

105. The conduct of said defendants, their "alternate entities," and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons. Plaintiff, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against all defendants.

106. At all times herein mentioned, each of the named Defendants, and/or their "alternate entities," was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as "alternate entities," engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and

advertising a certain product, namely asbestos, other products containing asbestos and products manufactured for foreseeable use with asbestos products.

FOR A THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondeat Superior)

As a Third Distinct Cause of Action Against Defendants, Plaintiff Brings this Third Cause of Action for Vicarious Liability of Product and Premises Defendants Based upon Respondeat Superior and Alleges as Follows:

107. Plaintiff incorporates herein by reference, as though fully set forth herein, each of the preceding paragraphs.

108. Prior to and during all relevant times Defendants and/or their “alternate entities” employed workers (hereinafter “employees”) in areas where defendants owned, maintained, controlled, managed and/or conducted business activities where Decedent Melvin G. Welch and/or his father Willis G. Welch worked and/or spent time as alleged above.

109. At all times herein mentioned, Defendants’ employees frequently encountered asbestos-containing products, materials, and debris during the course and scope of their employment, and during their regular work activities negligently disturbed asbestos-containing materials to which Decedent Melvin G. Welch and his father Willis G. Welch were exposed.

110. Employees handling and disturbing asbestos-containing products in Decedent Melvin G. Welch’s and his father Willis G. Welch’s vicinity were the agents and employees of defendants and at all times relevant were subject to the control of Defendants with respect to their acts, labor, and work involving (a) the removal, transport, installation, cleaning, handling, and maintenance of asbestos-containing products, materials, and debris, and (b) the implementation of safety policies and procedures. Defendants controlled both the means and manner of performance of the work of their employees as described herein.

111. Employees handling and disturbing asbestos-containing products in Decedent Melvin G. Welch's, Decedent's family members and others' vicinity received monetary compensation from Defendants in exchange for the work performed and these employees performed the work in the transaction and furtherance of Defendants' businesses.

112. Harmful asbestos fibers were released during Defendants' employees' use, handling, breaking, or other manipulation of asbestos-containing products and materials.

113. Once released, the asbestos fibers contaminated the clothes, shoes, skin, hair, and body parts of those exposed, including Decedent Melvin G. Welch and his father Willis G. Welch, who also inhaled those fibers, and on the surfaces of work areas, where further activity caused the fibers to once again be released into the air and inhaled by Decedent Melvin G. Welch.

114. The asbestos and asbestos-containing materials were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air onto surrounding surfaces, and onto persons in the area. The inhalation of asbestos fibers can cause serious disease and death.

115. Defendants' employees' use, handling and manipulation of asbestos-containing materials, as required by their employment and occurring during the course and scope of their employment, did in fact, cause personal injuries, including mesothelioma and other lung damage, to exposed persons including Decedent Melvin G. Welch.

116. Defendants' employees were negligent in their use, handling and manipulation of said products in that they failed to isolate their work with asbestos and/or to suppress asbestos fibers from being released into the air and surrounding areas. They also failed to take appropriate steps to learn how to prevent exposure to asbestos, failed to warn and/or adequately warn Decedent and his father Willis G. Welch that he was being exposed to asbestos, failed to adequately warn

Decedent Melvin G. Welch and his father Willis G. Welch of the harm associated with his exposure to asbestos, and provide him with protection to prevent his inhalation of asbestos.

117. Defendants' employees knew or should have known that failure to take such steps would result in exposure to bystanders including Decedent Melvin G. Welch and his father Willis G. Welch.

118. Defendants' employees owed Decedent Melvin G. Welch and his father Willis G. Welch a duty to exercise due care and diligence in their activities while he was lawfully on the premises so as not to cause him harm.

119. Defendants' employees breached this duty of care as described above.

120. At all times mentioned, Decedent Melvin G. Welch and his father Willis G. Welch were unaware of the dangerous condition and unreasonable risk of personal injury created by Defendants' employees' use of and work with asbestos-containing products and materials.

121. As a direct result of the Defendants' employees conduct, Decedent Melvin G. Welch's and his father Willis G. Welch's exposure to asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products, each individually and together, caused severe and permanent injury to Decedent Melvin G. Welch and the damages and injuries as complained of herein by Plaintiff.

122. The risks herein alleged and the resultant damages suffered by the Decedent Melvin G. Welch were typical of or broadly incidental to Defendants' business enterprises. As a practical matter, the losses caused by the torts of Defendants' employees as alleged were sure to occur in the conduct of Defendants' business enterprises. Nonetheless, Defendants engaged in, and sought to profit by, their business enterprises without exercising due care as described in this Complaint, which, on the basis of past experience, involved harm to others as shown through the torts of employees.

123. Based on the foregoing, Defendants as the employers of said employees are vicariously liable under the doctrine of respondeat superior for all negligent acts and omissions committed by their employees in the course and scope of their work that caused harm to Decedent Melvin G. Welch.

FOR A FOURTH CAUSE OF ACTION
(Negligence Per Se)

As a Fourth Distinct Cause of Action for Negligence Per Se, Plaintiff Complains of Defendants, and Alleges as Follows:

124. Plaintiff incorporates herein by reference, as though fully set forth herein, each of the preceding paragraphs.

125. The actions of Defendants also constituted negligence per se.

126. Defendants violated federal and state regulations relating to asbestos exposure. Such violations constitute negligence per se or negligence as a matter of law. Further, each such violation resulted in dangerous and unlawful exposures to asbestos for Decedent Melvin G. Welch. Plaintiff is not making any claims under federal law; instead, Plaintiff is simply using the violation of federal standards as proof of liability on her state-law theories. Further, the reference to Federal regulations does not create a federal question. *See Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804 (1986). Any removal on this basis will be met with an immediate motion for remand and for sanctions.

127. The negligence per se of Defendants was a proximate cause of Plaintiff's injuries.

FOR A FIFTH CAUSE OF ACTION
(Negligence as to Design Defendants)

As a Fifth Distinct Cause of Action for Negligence, Plaintiff Complains of Design Defendants and Alleges as Follows:

128. Plaintiff incorporates herein by reference, as though fully set forth herein, each of the preceding paragraphs.

129. The work performed by the Design Defendants was defective in all, but not limited to, the following particulars:

- (a) In failing and neglecting to properly inspect the building for defects in the construction, design, and defects in the asbestos-containing products, materials and/or equipment.
- (b) In failing and neglecting to properly train employees in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (c) In failing and neglecting to properly supervise employees, contractors, subcontractors, and/or suppliers in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (d) In failing and neglecting to employ careful contractors and/or employees.
- (e) In failing and neglecting to properly install asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (f) In failing to properly install the asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (g) In failing to properly warn Decedent Melvin G. Welch and his father Willis G. Welch of dangers and risks associated with the conditions of the material and work product which was being installed for use by Decedent and others in his vicinity.
- (h) By such other failures as will be proved at trial.

All of which is contrary to one or more of workmanlike practice; the plans, specifications, and other contract documents; manufacturers' recommendations and instructions; trade custom and usage; and applicable building codes.

130. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiff suffered and incurred actual damages, as described hereinabove, and is entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiff to recover punitive damages.

FOR A SIXTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

As a Sixth Distinct Cause of Action for Negligent Design Services, Plaintiff Complains of Design Defendants and Alleges as Follows:

131. Plaintiff incorporates herein by reference, as though fully set forth herein, each of the preceding paragraphs.

132. Design Defendants owed Decedent Melvin G. Welch and his father Willis G. Welch a duty to perform professional design services, including construction administration, in accordance with professional standards obtained in South Carolina for the delivery and performance of such services.

133. Design Defendants breached such professional standards in all, but not limited to, the following particulars:

- (a) In failing and neglecting to take reasonable care in the design of said building.
- (b) In failing and neglecting to properly design said building, to issue proper construction, to prevent continuous and substantial exposure to asbestos and/or asbestos-containing products.
- (c) In failing and neglecting to properly supervise the construction of said building.
- (d) In failing and neglecting to properly and reasonably design said building to eliminate exposure to asbestos and/or asbestos-containing products, including but not limited to asbestos-containing insulation.
- (e) In negligently specifying the use of inappropriate, improper and/or defective and deficient building systems, materials, and components, including but not limited to asbestos-containing insulation.
- (f) By such other failures as will be proved at trial.

134. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiff has suffered and incurred actual damages, as described hereinabove, and is entitled to recover such damages from the Design Defendants in such an amount as the trier of fact

may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiff to recover punitive damages.

FOR A SEVENTH CAUSE OF ACTION
(Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314)

As a Seventh Distinct Cause Of Action for Breach of Implied Warranties, Plaintiff Complains of Defendants and Alleges as Follows:

135. Plaintiff incorporates herein by reference, as though fully set forth herein, each of the preceding paragraphs.

136. Each of the Defendants and/or their “alternate entities” impliedly warranted that their asbestos materials or asbestos-containing products were of good and merchantable quality and fit for their intended use.

137. The implied warranty made by the Defendants, and/or their alter egos, and/or their “alternate entities” that the asbestos and asbestos-containing products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Decedent Melvin G. Welch and his father Willis G. Welch carried out their duties and was as a result inhaled by Decedent Melvin G. Welch.

138. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Decedent Melvin G. Welch and his father Willis G. Welch were exposed to Defendants’ asbestos, asbestos-containing products, and/or products manufactured for foreseeable use with asbestos products and consequently developed mesothelioma, causing Plaintiff to suffer all damages attendant thereto.

FOR AN EIGHTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

For an Eighth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiff Complains of Defendants, and Alleges as Follows:

139. Plaintiff repeats and re-alleges the portions of the above paragraphs where relevant.

140. That during, before and after Decedent Melvin G. Welch's exposure to asbestos products manufactured by Defendants and/or their "alternate entities", the Defendants and/or their "alternate entities" falsely represented facts, including the dangers of asbestos exposure to Decedent Melvin G. Welch and his father Willis G. Welch in the particulars alleged in the paragraphs above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Decedent Melvin G. Welch. At the same time of these misrepresentations, Defendants each knew of the falsity of their representations and/or made the representations in reckless disregard of their truth or falsity.

141. The foregoing representations were material conditions precedent to Decedent Melvin G. Welch's continued exposure to asbestos-containing products. Defendants and/or their "alternate entities" each intended that Decedent Melvin G. Welch and his father Willis G. Welch act upon the representations by continuing his work around, and thereby exposure to, the asbestos products. Decedent Melvin G. Welch and his father Willis G. Welch were ignorant of the falsity of Defendants' representations and rightfully relied upon the representations.

142. As a direct and proximate result Decedent Melvin G. Welch's and his father Willis G. Welch's reliance upon Defendants' false representations, Plaintiff has suffered injuries and damages as described herein.

FOR A NINTH CAUSE OF ACTION
(Loss of Consortium)

For a Ninth Distinct Cause of Action for Loss of Consortium, Plaintiff Donna B. Welch Complains of Defendants, and Alleges as Follows:

143. Plaintiff incorporates by reference, the preceding paragraphs, where relevant.

144. Decedent Melvin G. Welch and Plaintiff Donna B. Welch were married November 26, 1972 and at all times relevant to this action were husband and wife.

145. Prior to his injuries as alleged, Decedent Melvin G. Welch was able and did perform his spousal duties. As a proximate result thereof, subsequent to the injuries, Decedent Melvin G. Welch has been unable to perform his spousal duties and the work and service usually performed in the care, maintenance and management of the family home. As a proximate result thereof, Plaintiff Donna B. Welch was deprived of the consortium of her spouse, including the performance of duties, all to Plaintiff's damages, in an amount presently unknown to Plaintiff but which will be proven at time of trial.

146. As a direct and proximate result of the acts of Defendants and/or their "alternate entities" and the severe injuries caused to Decedent Melvin G. Welch as set forth herein, Decedent's spouse and Plaintiff Donna B. Welch suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, society, comfort, companionship, love and affection of her spouse, and has suffered severe mental and emotional distress and general nervousness. Plaintiff prays judgment against Defendants, their "alternate entities" and each of them, as hereinafter set forth.

FOR A TENTH CAUSE OF ACTION
(Wrongful Death Action, S.C. Code Ann. § 15-51-10 et seq.)

For a Tenth Distinct Cause of Action for Wrongful Death, Plaintiff Complains of Defendants, and Alleges as Follows:

147. Plaintiff incorporates herein by reference, as though fully set forth herein, each of the preceding paragraphs, where relevant.

148. Plaintiff brings this cause of action for Decedent Melvin G. Welch's wrongful death pursuant to S.C. Code Ann. § 15-51-10, for the benefit of Donna B. Welch, as the widow of Decedent, and on behalf of the heirs of Melvin G. Welch, as defined by S.C. Code § 15-51-20.

149. As a direct and proximate result of the negligence, recklessness, carelessness, and intentional actions of Defendants as described above, Decedent Melvin G. Welch died on April 17, 2023, and his heirs have and will endure pecuniary loss, mental shock and suffering, wounded feelings, grief, sorrow, loss of love, loss of society with the Decedent, loss of guidance from the Decedent, loss of his companionship and deprivation of the use and comfort of the Decedent's experience, knowledge and judgment in managing the affairs of himself and his beneficiaries, and they have been otherwise seriously damaged. Moreover, reasonable funeral expenses were incurred, and Plaintiff prays for judgment against Defendants in such amount of actual and punitive damages as the trier of fact may determine.

FOR AN ELEVENTH CAUSE OF ACTION
(Survival Action, S.C. Code Ann. § 15-5-90)

For an Eleventh Distinct Cause of Action, known statutorily as a Survival Action, Plaintiff Complains of Defendants, and Alleges as Follows:

150. Plaintiff incorporates herein by reference, as though fully set forth herein, each of the preceding paragraphs, where relevant.

151. Plaintiff, Donna B. Welch, as Executor of the Estate of Melvin G. Welch, deceased, brings this survival action as allowed under S.C. Code Ann. § 15-5-90.

152. Plaintiff brings this cause of action for Decedent Melvin G. Welch's medical, surgical and hospital bills, as well as for Decedent's conscious pain and suffering prior to his untimely death, as well as for the mental distress of Decedent due to knowledge of his impending death from his incurable disease.

153. As a direct and proximate result of the negligence, recklessness, carelessness, and in some cases intentional actions of Defendants as described, Decedent endured conscious pain, suffering, mental anguish and distress until his untimely death, and Plaintiff prays for judgment against Defendants in such amount of actual and punitive damages as the trier of fact may determine is just.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or their "alternate entities" in an amount to be proved at trial, as follows:

1. For Decedent's actual damages according to proof, including pain and suffering, mental distress, as well as medical, surgical and hospital bills;
2. For loss of income or earnings according to proof;
3. For loss of care, comfort and society;
4. For pecuniary loss of the beneficiaries/heirs including but not limited to funeral and burial costs, for mental shock and suffering of the beneficiaries/heirs, for wounded feelings of the beneficiaries/heirs, for grief and sorrow of the beneficiaries/heirs, loss of his companionship and deprivation of the use and comfort of the Decedent's experience, knowledge and judgment in managing the affairs of himself and his beneficiaries;
5. For punitive damages according to proof;
6. For Plaintiffs' cost of suit herein;
7. For damages for breach of implied warranty according to proof;
8. For damages for fraudulent misrepresentation according to proof;

9. All economic and non-economic damages allowed pursuant to the Survival and Wrongful Death Act; and

10. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,

s/ Theile B. McVey

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ATTORNEYS FOR PLAINTIFFS

June 16, 2023
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	CIVIL ACTION NO. 2022-CP-40-03834
Melvin G. Welch and Donna B. Welch,	)	
	)	
Plaintiffs,	)	<u>MOTION TO DISMISS FOR LACK</u>
	)	<u>OF PERSONAL JURISDICTION OF</u>
vs.	)	<u>DEFENDANT ATLAS TURNER,</u>
	)	<u>INC. ON BEHALF OF ITSELF AND</u>
3M Company, et al.,	)	<u>DEFENDANT ATLAS ASBESTOS</u>
	)	<u>CO.</u>
	)	
Defendants.	)	
	)	

Defendant Atlas Turner, Inc. sued incorrectly as Atlas Turner, Inc., as successor to Atlas Asbestos Co. (“Atlas Turner”), on behalf of itself and Defendant Atlas Asbestos Co., by and through undersigned counsel, hereby moves to dismiss Plaintiffs’ Complaint pursuant to Rule 12(b)(2) of the South Carolina Rules of Civil Procedure on the ground that this Court lacks personal jurisdiction over it.¹

1. Plaintiffs’ Complaint alleges that Mr. Welch developed mesothelioma as the result of exposure to various asbestos-containing products or raw asbestos materials.²

2. Plaintiffs’ Complaint lists Atlas Turner “as a Product Defendant” and alleges Mr. Welch was exposed to asbestos and/or asbestos-containing products, materials, or equipment “mined... processed... imported... supplied... and/or retailed...” by Atlas Turner, including but not limited to raw asbestos.³

EXHIBIT

4.1

¹ Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner, Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

² Pl.’s Compl. at ¶¶ 1, 3.

³ Pl.’s Compl. at ¶¶ 26, 27.

3. Plaintiffs have failed to make a *prima facie* showing that Atlas Turner is subject to either general or specific personal jurisdiction in South Carolina. Whether a foreign defendant, such as Atlas Turner, is subject to this Court's personal jurisdiction is an individualized analysis that is dependent on the facts of each case. *Cockrell v. Hillerich & Bradsby Co.*, 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005). At the pretrial stage Plaintiffs bear the burden of establishing personal jurisdiction either by factual allegations in the complaint or in affidavits. *Id.* Where a defendant moves to dismiss for lack of jurisdiction, the court may look to affidavits and other evidence to determine whether jurisdiction exists. *Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 150, 723 S.E.2d 835, 839 (Ct. App. 2012). Here, Plaintiffs' generic and conclusory jurisdictional allegations are just that: bare boilerplate statements, unsupported by fact, which are insufficient to establish this Court's jurisdiction over Atlas Turner. *Id.* at 150-51, 723 S.E.2d at 839 ("The repeating of the statute is insufficient to support a finding of personal jurisdiction... [a] *prima facie* showing of personal jurisdiction can be made through *factual* allegations in the complaint or through affidavits").

4. First, the Court does not have general personal jurisdiction over Atlas Turner because it does not have continuous and systematic contacts with South Carolina such that it is essentially "at home" in this state. *See Coggeshall v. Reprod. Endocrine Assocs. of Charlotte*, 376 S.C. 12, 16, 655 S.E.2d 476, 478 (2007); *see also* S.C. Code Ann. § 36-2-802. Atlas Turner is not a South Carolina corporation and does not have its principal place of business in South Carolina; therefore, it is not subject to general jurisdiction in South Carolina.⁴ *See e.g., Daimler AG v.*

⁴ Plaintiffs correctly state that Atlas Turner "was and is" a Canadian corporation with its principal place of business in Canada. Pl.'s. Compl. at ¶ 27. *See also* ¶ 26.

Bauman, 571 U.S. 117, 137 (2014) (“With respect to a corporation, the place of incorporation and principal place of business are ‘paradig[m] . . . bases for general jurisdiction.’”).

5. Second, Plaintiffs have not shown that this Court has specific personal jurisdiction over Atlas Turner. Specific personal jurisdiction is granted pursuant to South Carolina’s long arm statute, S.C. Code Ann. § 36-2-803, which has been construed to extend to the outer limits of the due process clause. *Cockrell*, 363 S.C. at 491, 611 S.E.2d at 508. Due process requires (1) that minimum contacts exist between Atlas Turner and South Carolina such that maintaining the suit does not offend “traditional notions of fair play and substantial justice” and (2) that the exercise of jurisdiction be reasonable and fair. *Id.* at 491-92, 611 S.E.2d at 508. When examining whether exercise of jurisdiction would be reasonable and fair, the Court must examine (1) the duration of Atlas Turner’s activities in South Carolina, (2) the character and circumstances of Atlas Turner’s acts, (3) the inconvenience resulting to Atlas Turner by either conferring or refusing jurisdiction, and (4) South Carolina’s interest in exercising jurisdiction. *Id.* at 492, 611 S.E.2d at 508.

6. Plaintiffs have not shown, and cannot show, Atlas Turner has sufficient minimum contacts with South Carolina. “A minimum contacts analysis requires a court to find the defendant directed its activities to a resident of this State and that the cause of action arises out of or relates to those activities.” *S. Plastics Co. v. S. Commerce Bank*, 310 S.C. 256, 260, 423 S.E.2d 128, 131 (1992). *See also Bristol-Meyers Squibb Co. v. Superior Court of California, San Francisco County*, 137 S.Ct. 1773, 1780 (2017); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 296-297 (1980); *Hanson v. Denckla*, 357 U.S. 235, 251, 253 (1958). Atlas Turner has not purposefully directed *any* activities at South Carolina that the cause of action arises out of or relates to; therefore, there are not sufficient minimum contacts with South Carolina to render this Court’s exercise of personal jurisdiction permissible under the Due Process Clause. *See Coggeshall*, 376

S.C. at 16, 655 S.E.2d at 478 (“Due process requires some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state.”)

7. Because the Court lacks both general personal jurisdiction and specific personal jurisdiction over Atlas Turner, Plaintiffs’ Complaint must be dismissed with respect to Atlas Turner.

This Motion is based upon, and may be further supplemented with, applicable pleadings, discovery, affidavits, exhibits, deposition transcripts, controlling law, supporting memoranda of law, and such other and further material as the Court may deem appropriate. Atlas Turner’s participation in discovery prior to a hearing on this Motion shall not be construed as a waiver by Atlas Turner of any rights, defenses, or objections, including lack of personal jurisdiction, all of which are expressly reserved.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Defendant Atlas Turner, Inc.

Columbia, South Carolina

September 9, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	CIVIL ACTION NO. 2022-CP-40-03834
Melvin G. Welch and Donna B. Welch,	)	
	)	
Plaintiffs,	)	<u>MOTION TO DISMISS</u>
	)	<u>PLAINTIFFS' FIRST AMENDED</u>
vs.	)	<u>COMPLAINT FOR LACK OF</u>
	)	<u>PERSONAL JURISDICTION OF</u>
3M Company, et al.,	)	<u>DEFENDANT ATLAS TURNER,</u>
	)	<u>INC. ON BEHALF OF ITSELF AND</u>
Defendants.	)	<u>DEFENDANT ATLAS ASBESTOS</u>
	)	<u>CO.</u>

Defendant Atlas Turner, Inc. sued incorrectly as Atlas Turner, Inc., as successor to Atlas Asbestos Co. ("Atlas Turner"), on behalf of itself and Defendant Atlas Asbestos Co., by and through undersigned counsel, hereby moves to dismiss Plaintiffs' First Amended Complaint (hereinafter "Complaint") pursuant to Rule 12(b)(2) of the South Carolina Rules of Civil Procedure on the ground that this Court lacks personal jurisdiction over it.¹

1. Plaintiffs' Complaint alleges that Mr. Welch developed mesothelioma as the result of exposure to various asbestos-containing products or raw asbestos materials.²

2. Plaintiffs' Complaint lists Atlas Turner "as a Product Defendant" and alleges Mr. Welch was exposed to asbestos and/or asbestos-containing products, materials, or equipment "mined... processed... imported... supplied... and/or retailed..." by Atlas Turner, including but not limited to raw asbestos.³

EXHIBIT

4.2

¹ Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner, Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

² Pl.'s Compl. at ¶¶ 1, 3.

³ Pl.'s Compl. at ¶¶ 26, 27.

3. Plaintiffs have failed to make a *prima facie* showing that Atlas Turner is subject to either general or specific personal jurisdiction in South Carolina. Whether a foreign defendant, such as Atlas Turner, is subject to this Court's personal jurisdiction is an individualized analysis that is dependent on the facts of each case. *Cockrell v. Hillerich & Bradsby Co.*, 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005). At the pretrial stage Plaintiffs bear the burden of establishing personal jurisdiction either by factual allegations in the complaint or in affidavits. *Id.* Where a defendant moves to dismiss for lack of jurisdiction, the court may look to affidavits and other evidence to determine whether jurisdiction exists. *Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 150, 723 S.E.2d 835, 839 (Ct. App. 2012). Here, Plaintiffs' generic and conclusory jurisdictional allegations are just that: bare boilerplate statements, unsupported by fact, which are insufficient to establish this Court's jurisdiction over Atlas Turner. *Id.* at 150-51, 723 S.E.2d at 839 ("The repeating of the statute is insufficient to support a finding of personal jurisdiction... [a] *prima facie* showing of personal jurisdiction can be made through *factual* allegations in the complaint or through affidavits").

4. First, the Court does not have general personal jurisdiction over Atlas Turner because it does not have continuous and systematic contacts with South Carolina such that it is essentially "at home" in this state. *See Coggeshall v. Reprod. Endocrine Assocs. of Charlotte*, 376 S.C. 12, 16, 655 S.E.2d 476, 478 (2007); *see also* S.C. Code Ann. § 36-2-802. Atlas Turner is not a South Carolina corporation and does not have its principal place of business in South Carolina; therefore, it is not subject to general jurisdiction in South Carolina.⁴ *See e.g., Daimler AG v.*

⁴ Plaintiffs correctly state that Atlas Turner "was and is" a Canadian corporation with its principal place of business in Canada. Pl.'s. Compl. at ¶ 27. *See also* ¶ 26.

Bauman, 571 U.S. 117, 137 (2014) (“With respect to a corporation, the place of incorporation and principal place of business are ‘paradig[m] . . . bases for general jurisdiction.’”).

5. Second, Plaintiffs have not shown that this Court has specific personal jurisdiction over Atlas Turner. Specific personal jurisdiction is granted pursuant to South Carolina’s long arm statute, S.C. Code Ann. § 36-2-803, which has been construed to extend to the outer limits of the due process clause. *Cockrell*, 363 S.C. at 491, 611 S.E.2d at 508. Due process requires (1) that minimum contacts exist between Atlas Turner and South Carolina such that maintaining the suit does not offend “traditional notions of fair play and substantial justice” and (2) that the exercise of jurisdiction be reasonable and fair. *Id.* at 491-92, 611 S.E.2d at 508. When examining whether exercise of jurisdiction would be reasonable and fair, the Court must examine (1) the duration of Atlas Turner’s activities in South Carolina, (2) the character and circumstances of Atlas Turner’s acts, (3) the inconvenience resulting to Atlas Turner by either conferring or refusing jurisdiction, and (4) South Carolina’s interest in exercising jurisdiction. *Id.* at 492, 611 S.E.2d at 508.

6. Plaintiffs have not shown, and cannot show, Atlas Turner has sufficient minimum contacts with South Carolina. “A minimum contacts analysis requires a court to find the defendant directed its activities to a resident of this State and that the cause of action arises out of or relates to those activities.” *S. Plastics Co. v. S. Commerce Bank*, 310 S.C. 256, 260, 423 S.E.2d 128, 131 (1992). *See also Bristol-Meyers Squibb Co. v. Superior Court of California, San Francisco County*, 137 S.Ct. 1773, 1780 (2017); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 296-297 (1980); *Hanson v. Denckla*, 357 U.S. 235, 251, 253 (1958). Atlas Turner has not purposefully directed *any* activities at South Carolina that the cause of action arises out of or relates to; therefore, there are not sufficient minimum contacts with South Carolina to render this Court’s exercise of personal jurisdiction permissible under the Due Process Clause. *See Coggeshall*, 376

S.C. at 16, 655 S.E.2d at 478 (“Due process requires some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state.”)

7. Because the Court lacks both general personal jurisdiction and specific personal jurisdiction over Atlas Turner, Plaintiffs’ Complaint must be dismissed with respect to Atlas Turner.

This Motion is based upon, and may be further supplemented with, applicable pleadings, discovery, affidavits, exhibits, deposition transcripts, controlling law, supporting memoranda of law, and such other and further material as the Court may deem appropriate. Atlas Turner’s participation in discovery prior to a hearing on this Motion shall not be construed as a waiver by Atlas Turner of any rights, defenses, or objections, including lack of personal jurisdiction, all of which are expressly reserved.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Defendant Atlas Turner, Inc.

Columbia, South Carolina

October 20, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	CIVIL ACTION NO. 2022-CP-40-03834
Melvin G. Welch and Donna B. Welch,	)	
	)	
Plaintiffs,	)	<u>MOTION TO DISMISS</u>
	)	<u>PLAINTIFFS' SECOND AMENDED</u>
vs.	)	<u>COMPLAINT FOR LACK OF</u>
	)	<u>PERSONAL JURISDICTION OF</u>
3M Company, et al.,	)	<u>DEFENDANT ATLAS TURNER,</u>
	)	<u>INC. ON BEHALF OF ITSELF AND</u>
Defendants.	)	<u>DEFENDANT ATLAS ASBESTOS</u>
	)	<u>CO.</u>

Defendant Atlas Turner, Inc. sued incorrectly as Atlas Turner, Inc., as successor to Atlas Asbestos Co. ("Atlas Turner"), on behalf of itself and Defendant Atlas Asbestos Co., by and through undersigned counsel, hereby moves to dismiss Plaintiffs' Second Amended Complaint (hereinafter "Complaint") pursuant to Rule 12(b)(2) of the South Carolina Rules of Civil Procedure on the ground that this Court lacks personal jurisdiction over it.¹

1. Plaintiffs' Complaint alleges that Mr. Welch developed mesothelioma as the result of exposure to, among other things, various asbestos-containing products or raw asbestos materials.²

2. Plaintiffs' Complaint lists Atlas Turner "as a Product Defendant" and alleges Mr. Welch was exposed to asbestos and/or asbestos-containing products, materials, or equipment "mined... processed... imported... supplied... and/or retailed..." by Atlas Turner, including but not limited to raw asbestos.³

¹ Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner, Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

² Pl.'s Compl. at ¶¶ 1, 1 (incorrectly numbered).

³ Pl.'s Compl. at ¶¶ 22 (incorrectly numbered), 23 (incorrectly numbered).

3. Plaintiffs have failed to make a *prima facie* showing that Atlas Turner is subject to either general or specific personal jurisdiction in South Carolina. Whether a foreign defendant, such as Atlas Turner, is subject to this Court's personal jurisdiction is an individualized analysis that is dependent on the facts of each case. *Cockrell v. Hillerich & Bradsby Co.*, 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005). At the pretrial stage Plaintiffs bear the burden of establishing personal jurisdiction either by factual allegations in the complaint or in affidavits. *Id.* Where a defendant moves to dismiss for lack of jurisdiction, the court may look to affidavits and other evidence to determine whether jurisdiction exists. *Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 150, 723 S.E.2d 835, 839 (Ct. App. 2012). Here, Plaintiffs' generic and conclusory jurisdictional allegations are just that: bare boilerplate statements, unsupported by fact, which are insufficient to establish this Court's jurisdiction over Atlas Turner. *Id.* at 150-51, 723 S.E.2d at 839 ("The repeating of the statute is insufficient to support a finding of personal jurisdiction... [a] *prima facie* showing of personal jurisdiction can be made through *factual* allegations in the complaint or through affidavits").

4. First, the Court does not have general personal jurisdiction over Atlas Turner because it does not have continuous and systematic contacts with South Carolina such that it is essentially "at home" in this state. *See Coggeshall v. Reprod. Endocrine Assocs. of Charlotte*, 376 S.C. 12, 16, 655 S.E.2d 476, 478 (2007); *see also* S.C. Code Ann. § 36-2-802. Atlas Turner is not a South Carolina corporation and does not have its principal place of business in South Carolina; therefore, it is not subject to general jurisdiction in South Carolina.⁴ *See e.g., Daimler AG v.*

⁴ Plaintiffs correctly state that Atlas Turner "was and is" a Canadian corporation with its principal place of business in Canada. Pl.'s. Compl. at ¶ 23 (incorrectly numbered). *See also* ¶ 22 (incorrectly numbered).

Bauman, 571 U.S. 117, 137 (2014) (“With respect to a corporation, the place of incorporation and principal place of business are ‘paradig[m] . . . bases for general jurisdiction.’”).

5. Second, Plaintiffs have not shown that this Court has specific personal jurisdiction over Atlas Turner. Specific personal jurisdiction is granted pursuant to South Carolina’s long arm statute, S.C. Code Ann. § 36-2-803, which has been construed to extend to the outer limits of the due process clause. *Cockrell*, 363 S.C. at 491, 611 S.E.2d at 508. Due process requires (1) that minimum contacts exist between Atlas Turner and South Carolina such that maintaining the suit does not offend “traditional notions of fair play and substantial justice” and (2) that the exercise of jurisdiction be reasonable and fair. *Id.* at 491-92, 611 S.E.2d at 508. When examining whether exercise of jurisdiction would be reasonable and fair, the Court must examine (1) the duration of Atlas Turner’s activities in South Carolina, (2) the character and circumstances of Atlas Turner’s acts, (3) the inconvenience resulting to Atlas Turner by either conferring or refusing jurisdiction, and (4) South Carolina’s interest in exercising jurisdiction. *Id.* at 492, 611 S.E.2d at 508.

6. Plaintiffs have not shown, and cannot show, Atlas Turner has sufficient minimum contacts with South Carolina. “A minimum contacts analysis requires a court to find the defendant directed its activities to a resident of this State and that the cause of action arises out of or relates to those activities.” *S. Plastics Co. v. S. Commerce Bank*, 310 S.C. 256, 260, 423 S.E.2d 128, 131 (1992). *See also Bristol-Meyers Squibb Co. v. Superior Court of California, San Francisco County*, 137 S.Ct. 1773, 1780 (2017); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 296-297 (1980); *Hanson v. Denckla*, 357 U.S. 235, 251, 253 (1958). Atlas Turner has not purposefully directed *any* activities at South Carolina that the cause of action arises out of or relates to; therefore, there are not sufficient minimum contacts with South Carolina to render this Court’s exercise of personal jurisdiction permissible under the Due Process Clause. *See Coggeshall*, 376

S.C. at 16, 655 S.E.2d at 478 (“Due process requires some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state.”)

7. Because the Court lacks both general personal jurisdiction and specific personal jurisdiction over Atlas Turner, Plaintiffs’ Complaint must be dismissed with respect to Atlas Turner.

This Motion is based upon, and may be further supplemented with, applicable pleadings, discovery, affidavits, exhibits, deposition transcripts, controlling law, supporting memoranda of law, and such other and further material as the Court may deem appropriate. Atlas Turner’s participation in discovery prior to a hearing on this Motion shall not be construed as a waiver by Atlas Turner of any rights, defenses, or objections, including lack of personal jurisdiction, all of which are expressly reserved.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Defendant Atlas Turner, Inc.

Columbia, South Carolina

November 8, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	CIVIL ACTION NO. 2022-CP-40-03834
Melvin G. Welch and Donna B. Welch,	)	
	)	
Plaintiffs,	)	<u>MOTION TO DISMISS</u>
	)	<u>PLAINTIFFS' THIRD AMENDED</u>
vs.	)	<u>COMPLAINT FOR LACK OF</u>
	)	<u>PERSONAL JURISDICTION OF</u>
3M Company, et al.,	)	<u>DEFENDANT ATLAS TURNER,</u>
	)	<u>INC. ON BEHALF OF ITSELF AND</u>
Defendants.	)	<u>DEFENDANT ATLAS ASBESTOS</u>
	)	<u>CO.</u>

Defendant Atlas Turner, Inc. sued incorrectly as Atlas Turner, Inc., as successor to Atlas Asbestos Co. ("Atlas Turner"), on behalf of itself and Defendant Atlas Asbestos Co., by and through undersigned counsel, hereby moves to dismiss Plaintiffs' Third Amended Complaint (hereinafter "Complaint") pursuant to Rule 12(b)(2) of the South Carolina Rules of Civil Procedure on the ground that this Court lacks personal jurisdiction over it.¹

1. Plaintiffs' Complaint alleges that Mr. Welch developed mesothelioma as the result of exposure to, among other things, various asbestos-containing products or raw asbestos materials.²

2. Plaintiffs' Complaint lists Atlas Turner "as a Product Defendant" and alleges Mr. Welch was exposed to asbestos and/or asbestos-containing products, materials, or equipment "mined... processed... imported... supplied... and/or retailed..." by Atlas Turner, including but not limited to raw asbestos.³

¹ Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner, Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

² Pl.'s Compl. at ¶¶ 1, 3.

³ Pl.'s Compl. at ¶¶ 26, 27.

3. Plaintiffs have failed to make a *prima facie* showing that Atlas Turner is subject to either general or specific personal jurisdiction in South Carolina. Whether a foreign defendant, such as Atlas Turner, is subject to this Court's personal jurisdiction is an individualized analysis that is dependent on the facts of each case. *Cockrell v. Hillerich & Bradsby Co.*, 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005). At the pretrial stage Plaintiffs bear the burden of establishing personal jurisdiction either by factual allegations in the complaint or in affidavits. *Id.* Where a defendant moves to dismiss for lack of jurisdiction, the court may look to affidavits and other evidence to determine whether jurisdiction exists. *Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 150, 723 S.E.2d 835, 839 (Ct. App. 2012). Here, Plaintiffs' generic and conclusory jurisdictional allegations are just that: bare boilerplate statements, unsupported by fact, which are insufficient to establish this Court's jurisdiction over Atlas Turner. *Id.* at 150-51, 723 S.E.2d at 839 ("The repeating of the statute is insufficient to support a finding of personal jurisdiction... [a] *prima facie* showing of personal jurisdiction can be made through *factual* allegations in the complaint or through affidavits").

4. First, the Court does not have general personal jurisdiction over Atlas Turner because it does not have continuous and systematic contacts with South Carolina such that it is essentially "at home" in this state. *See Coggeshall v. Reprod. Endocrine Assocs. of Charlotte*, 376 S.C. 12, 16, 655 S.E.2d 476, 478 (2007); *see also* S.C. Code Ann. § 36-2-802. Atlas Turner is not a South Carolina corporation and does not have its principal place of business in South Carolina; therefore, it is not subject to general jurisdiction in South Carolina.⁴ *See e.g., Daimler AG v.*

⁴ Plaintiffs correctly state that Atlas Turner "was and is" a Canadian corporation with its principal place of business in Canada. Pl.'s. Compl. at ¶ 27. *See also* ¶ 26.

Bauman, 571 U.S. 117, 137 (2014) (“With respect to a corporation, the place of incorporation and principal place of business are ‘paradig[m] . . . bases for general jurisdiction.’”).

5. Second, Plaintiffs have not shown that this Court has specific personal jurisdiction over Atlas Turner. Specific personal jurisdiction is granted pursuant to South Carolina’s long arm statute, S.C. Code Ann. § 36-2-803, which has been construed to extend to the outer limits of the due process clause. *Cockrell*, 363 S.C. at 491, 611 S.E.2d at 508. Due process requires (1) that minimum contacts exist between Atlas Turner and South Carolina such that maintaining the suit does not offend “traditional notions of fair play and substantial justice” and (2) that the exercise of jurisdiction be reasonable and fair. *Id.* at 491-92, 611 S.E.2d at 508. When examining whether exercise of jurisdiction would be reasonable and fair, the Court must examine (1) the duration of Atlas Turner’s activities in South Carolina, (2) the character and circumstances of Atlas Turner’s acts, (3) the inconvenience resulting to Atlas Turner by either conferring or refusing jurisdiction, and (4) South Carolina’s interest in exercising jurisdiction. *Id.* at 492, 611 S.E.2d at 508.

6. Plaintiffs have not shown, and cannot show, Atlas Turner has sufficient minimum contacts with South Carolina. “A minimum contacts analysis requires a court to find the defendant directed its activities to a resident of this State and that the cause of action arises out of or relates to those activities.” *S. Plastics Co. v. S. Commerce Bank*, 310 S.C. 256, 260, 423 S.E.2d 128, 131 (1992). *See also Bristol-Meyers Squibb Co. v. Superior Court of California, San Francisco County*, 137 S.Ct. 1773, 1780 (2017); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 296-297 (1980); *Hanson v. Denckla*, 357 U.S. 235, 251, 253 (1958). Atlas Turner has not purposefully directed *any* activities at South Carolina that the cause of action arises out of or relates to; therefore, there are not sufficient minimum contacts with South Carolina to render this Court’s exercise of personal jurisdiction permissible under the Due Process Clause. *See Coggeshall*, 376

S.C. at 16, 655 S.E.2d at 478 (“Due process requires some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state.”)

7. Because the Court lacks both general personal jurisdiction and specific personal jurisdiction over Atlas Turner, Plaintiffs’ Complaint must be dismissed with respect to Atlas Turner.

This Motion is based upon, and may be further supplemented with, applicable pleadings, discovery, affidavits, exhibits, deposition transcripts, controlling law, supporting memoranda of law, and such other and further material as the Court may deem appropriate. Atlas Turner’s participation in discovery prior to a hearing on this Motion shall not be construed as a waiver by Atlas Turner of any rights, defenses, or objections, including lack of personal jurisdiction, all of which are expressly reserved.

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Attorneys for Defendant Atlas Turner, Inc.

Columbia, South Carolina

November 17, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
Melvin G. Welch and Donna B. Welch,	)	C/A NO. 2022-CP-40-03834
	)	
Plaintiffs,	)	
	)	
vs.	)	<u>ANSWER AND DEFENSES OF</u>
	)	<u>DEFENDANT ATLAS TURNER,</u>
3M Company, et al.,	)	<u>INC., ON BEHALF OF ITSELF</u>
	)	<u>AND DEFENDANT ATLAS</u>
	)	<u>ASBESTOS CO. TO</u>
Defendants.	)	<u>PLAINTIFFS' THIRD</u>
	)	<u>AMENDED COMPLAINT</u>
	)	

(Jury Trial Requested)

Comes now, Defendant Atlas Turner, Inc. sued incorrectly as Atlas Turner, Inc., as successor to Atlas Asbestos Co. ("Atlas Turner, Inc." or "Defendant"), on behalf of itself and Defendant Atlas Asbestos Co.,¹ by and through undersigned counsel, and presents the following Answers and Defenses to Plaintiffs' Third Amended Complaint ("Complaint").

GENERAL DENIAL

Each and every allegation of the Complaint is expressly denied unless specifically admitted, qualified, or explained herein.

RESPONSE TO GENERAL ALLEGATIONS

1. Atlas Turner, Inc. denies the allegations in paragraph 1, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 1 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

EXHIBIT

5.1

¹ Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

2. Atlas Turner, Inc. denies the allegations in paragraph 2, including all subparts, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 2 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

3. Atlas Turner, Inc. denies the allegations in paragraph 3, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 3 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

4. Atlas Turner, Inc. denies the allegations in paragraph 4, including all subparts, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 4 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

5. Atlas Turner, Inc. denies the allegations in paragraph 5, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 5 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

6. Atlas Turner, Inc. denies the allegations in paragraph 6, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 6 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a

response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

7. Atlas Turner, Inc. denies the allegations in paragraph 7, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 7 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

8. Atlas Turner, Inc. denies the allegations in paragraph 8, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 8 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

9. Atlas Turner, Inc. denies the allegations in paragraph 9, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 9 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

10. Atlas Turner, Inc. denies the allegations in paragraph 10, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 10 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

11. Atlas Turner, Inc. denies the allegations in paragraph 11, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 11 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

12. Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 12 and, therefore, denies the allegations.

13. Atlas Turner, Inc. denies the allegations in paragraph 13, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 13 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

14. Atlas Turner, Inc. denies the allegations in paragraph 14, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 14 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

15. Atlas Turner, Inc. denies the allegations in paragraph 15, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 15 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

16. Atlas Turner, Inc. denies the allegations in paragraph 16, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 16 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

17. Atlas Turner, Inc. denies the allegations in paragraph 17, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 17 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

18. Atlas Turner, Inc. denies the allegations in paragraph 18, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 18 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

19. Atlas Turner, Inc. denies the allegations in paragraph 19, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 19 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

20. Paragraph 20 affirmatively disclaims any cause of action related to (a) any United States armed forces service, (b) any federal enclave, (c) the United States Constitution or any federal law or regulations, and (d) federal admiralty or maritime law. To the extent that Plaintiffs' allegations of exposure to asbestos against Atlas Turner, Inc. derive from service in the United States armed forces or at any federal enclave, or to the extent that Plaintiff attempts to assert a claim against Atlas Turner, Inc. that arises under federal law or regulation or under federal admiralty or maritime law, those allegations are now expressly waived and the Complaint must be dismissed as to Atlas Turner, Inc. Atlas Turner, Inc. denies any remaining allegations in paragraph 20.

RESPONSE TO THE PARTIES

21. Atlas Turner, Inc. denies the allegations in paragraph 21, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 21 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

22. The allegations in paragraph 22 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

23. The allegations in paragraph 23 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

24. The allegations in paragraph 24 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

25. The allegations in paragraph 25 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

26. Defendant Atlas Asbestos Co. was a Canadian Company, and it changed its name to Atlas Turner, Inc.; the proper name of the company is Atlas Turner, Inc. The remaining allegations contained in paragraph 26 of the Complaint are denied. Defendant specifically denies that the Court has jurisdiction over it in this case.

27. Defendant Atlas Turner, Inc. admits that it is a corporation organized and existing under the laws of Canada, that its principal place of business was in Quebec, and that it is

headquartered in the Province of Quebec. Atlas Turner, Inc. denies the remaining allegations contained in paragraph 27 of the Complaint. Defendant specifically denies that this court has jurisdiction over it in this case.

28. The allegations in paragraph 28 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

29. The allegations in paragraph 29 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

30. The allegations in paragraph 30 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

31. The allegations in paragraph 31 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

32. The allegations in paragraph 32 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

33. The allegations in paragraph 33 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

34. The allegations in paragraph 34 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

35. The allegations in paragraph 35 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

36. The allegations in paragraph 36 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

37. The allegations in paragraph 37 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

38. The allegations in paragraph 38 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

39. The allegations in paragraph 39 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

40. The allegations in paragraph 40 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

41. The allegations in paragraph 41 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

42. The allegations in paragraph 42 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

43. The allegations in paragraph 43 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

44. The allegations in paragraph 44 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

45. The allegations in paragraph 45 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

46. The allegations in paragraph 46 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

47. The allegations in paragraph 47 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

48. The allegations in paragraph 48 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

49. The allegations in paragraph 49 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

50. The allegations in paragraph 50 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

51. The allegations in paragraph 51 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

52. The allegations in paragraph 52 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

53. The allegations in paragraph 53 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

54. The allegations in paragraph 54 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

55. The allegations in paragraph 55 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

56. The allegations in paragraph 56 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

57. The allegations in paragraph 57 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

58. The allegations in paragraph 58 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

59. The allegations in paragraph 59 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

60. The allegations in paragraph 60 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

61. The allegations in paragraph 61 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

62. The allegations in paragraph 62 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

63. The allegations in paragraph 63 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

64. The allegations in paragraph 64 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

65. The allegations in paragraph 65 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

66. The allegations in paragraph 66 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

67. The allegations in paragraph 67 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

68. The allegations in paragraph 68 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

69. The allegations in paragraph 69 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

70. The allegations in paragraph 70 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

71. The allegations in paragraph 71 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

72. The allegations in paragraph 72 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

73. The allegations in paragraph 73 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

74. The allegations in paragraph 74 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

75. The allegations in paragraph 75 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

76. The allegations in paragraph 76 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

77. The allegations in paragraph 77 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

78. The allegations in paragraph 78 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

79. The allegations in paragraph 79 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

80. The allegations in paragraph 80 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

81. The allegations in paragraph 81 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

82. The allegations in paragraph 82 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

83. The allegations in paragraph 83 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

84. The allegations in paragraph 84 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

85. The allegations in paragraph 85 are not directed at Atlas Turner, Inc. and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

86. The allegations in paragraph 86 are not directed at Atlas Turner, Inc. and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

87. Atlas Turner, Inc. denies the allegations in paragraph 87, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 87 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant denies that this Court has jurisdiction over it in this case.

RESPONSE TO BACKGROUND FACTS

88. Atlas Turner, Inc. denies the allegations in paragraph 88, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 88 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

89. Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 89 and, therefore, denies the allegations.

90. Atlas Turner, Inc. denies the allegations in paragraph 90, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 90 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

91. Atlas Turner, Inc. denies the allegations in paragraph 91, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 91 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 91 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

92. Atlas Turner, Inc. denies the allegations in paragraph 92, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 92 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 92 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

93. Atlas Turner, Inc. denies the allegations in paragraph 93, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 93 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 93 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

94. Atlas Turner, Inc. denies the allegations in paragraph 94, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 94 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 94 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

95. Atlas Turner, Inc. denies the allegations in paragraph 95, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 95 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 95 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc.

denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

96. Atlas Turner, Inc. denies the allegations in paragraph 96, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 96 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 96 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

97. Atlas Turner, Inc. denies the allegations in paragraph 97, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 97 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 97 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

98. Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 98 and, therefore, denies the allegations.

99. Atlas Turner, Inc. denies the allegations in paragraph 99, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 99 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a

response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

100. Atlas Turner, Inc. denies the allegations in paragraph 100, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 100 that contain allegations about Plaintiff Melvin G. Welch's father's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 100 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

101. Atlas Turner, Inc. denies the allegations in paragraph 101, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 101 that contain allegations about Plaintiff Melvin G. Welch's father's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 101 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

102. Atlas Turner, Inc. denies the allegations in paragraph 102, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 102 that contain allegations about Plaintiff Melvin G. Welch's father's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 102 are not directed at

Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

103. Atlas Turner, Inc. denies the allegations in paragraph 103, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 103 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

104. Atlas Turner, Inc. denies the allegations in paragraph 104, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 104 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

105. Atlas Turner, Inc. denies the allegations in paragraph 105, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 105 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

106. Atlas Turner, Inc. denies the allegations in paragraph 106, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 106 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

107. Atlas Turner, Inc. denies the allegations in paragraph 107, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 107 state legal conclusions

or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

108. Atlas Turner, Inc. denies the allegations in paragraph 108, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 108 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO FIRST CAUSE OF ACTION
(Product Liability: Negligence)

109. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

110. Atlas Turner, Inc. denies the allegations in paragraph 110, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 110 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

111. Atlas Turner, Inc. denies the allegations in paragraph 111, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 111 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

112. Atlas Turner, Inc. denies the allegations in paragraph 112, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 112 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

113. Atlas Turner, Inc. denies the allegations in paragraph 113, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 113 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

114. Atlas Turner, Inc. denies the allegations in paragraph 114, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 114 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

115. Atlas Turner, Inc. denies the allegations in paragraph 115, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 115 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

116. Atlas Turner, Inc. denies the allegations in paragraph 116, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 116 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

117. Atlas Turner, Inc. denies the allegations in paragraph 117, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 117 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

118. Atlas Turner, Inc. denies the allegations in paragraph 118, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 118 state legal conclusions

or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

119. Atlas Turner, Inc. denies the allegations in paragraph 119, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 119 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

120. Atlas Turner, Inc. denies the allegations in paragraph 120, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 120 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

121. Atlas Turner, Inc. denies the allegations in paragraph 121, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 121 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

122. Atlas Turner, Inc. denies the allegations in paragraph 122, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 122 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

123. Atlas Turner, Inc. denies the allegations in paragraph 123, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 123 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

124. Atlas Turner, Inc. denies the allegations in paragraph 124, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 124 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO SECOND CAUSE OF ACTION
(Product Liability: Strict Liability – S.C. Code Ann. § 15-73-10, et seq.)

125. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

126. Atlas Turner, Inc. denies the allegations in paragraph 126, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 126 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

127. Atlas Turner, Inc. denies the allegations in paragraph 127, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 127 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

128. Atlas Turner, Inc. denies the allegations in paragraph 128, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 128 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

129. Atlas Turner, Inc. denies the allegations in paragraph 129, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 129 state legal conclusions

or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

130. Atlas Turner, Inc. denies the allegations in paragraph 130, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 130 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

131. Atlas Turner, Inc. denies the allegations in paragraph 131, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 131 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations

132. Atlas Turner, Inc. denies the allegations in paragraph 132, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 132 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

133. Atlas Turner, Inc. denies the allegations in paragraph 133, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 133 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

134. Atlas Turner, Inc. denies the allegations in paragraph 134, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 134 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

135. Atlas Turner, Inc. denies the allegations in paragraph 135, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 135 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

136. Atlas Turner, Inc. denies the allegations in paragraph 136, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 136 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

137. Atlas Turner, Inc. denies the allegations in paragraph 137, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 137 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

138. Atlas Turner, Inc. denies the allegations in paragraph 138, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 138 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

139. Atlas Turner, Inc. denies the allegations in paragraph 139, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 139 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

140. Atlas Turner, Inc. denies the allegations in paragraph 140, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 140 state legal conclusions

or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

141. Atlas Turner, Inc. denies the allegations in paragraph 141, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 141 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondent Superior)

142. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

143. Atlas Turner, Inc. denies the allegations in paragraph 143, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 143 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

144. Atlas Turner, Inc. denies the allegations in paragraph 144, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 144 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

145. Atlas Turner, Inc. denies the allegations in paragraph 145, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 145 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

146. Atlas Turner, Inc. denies the allegations in paragraph 146, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 146 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

147. Atlas Turner, Inc. denies the allegations in paragraph 147, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 147 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

148. Atlas Turner, Inc. denies the allegations in paragraph 148, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 148 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

149. Atlas Turner, Inc. denies the allegations in paragraph 149, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 149 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

150. Atlas Turner, Inc. denies the allegations in paragraph 150, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 150 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

151. Atlas Turner, Inc. denies the allegations in paragraph 151, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 151 state legal conclusions

or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

152. Atlas Turner, Inc. denies the allegations in paragraph 152, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 152 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

153. Atlas Turner, Inc. denies the allegations in paragraph 153, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 153 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

154. Atlas Turner, Inc. denies the allegations in paragraph 154, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 154 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

155. Atlas Turner, Inc. denies the allegations in paragraph 155, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 155 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

156. Atlas Turner, Inc. denies the allegations in paragraph 156, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 156 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

157. Atlas Turner, Inc. denies the allegations in paragraph 157, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 157 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

158. Atlas Turner, Inc. denies the allegations in paragraph 158, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 158 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO FOURTH CAUSE OF ACTION
(Premises Liability: Negligence as to Premises Owner/Contractor)

159. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

160. Atlas Turner, Inc. denies the allegations in paragraph 160, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 160 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

161. Atlas Turner, Inc. denies the allegations in paragraph 161, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 161 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

162. Atlas Turner, Inc. denies the allegations in paragraph 162, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 162 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

163. Atlas Turner, Inc. denies the allegations in paragraph 163, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 163 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

164. Atlas Turner, Inc. denies the allegations in paragraph 164, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 164 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

165. Atlas Turner, Inc. denies the allegations in paragraph 165, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 165 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

166. Atlas Turner, Inc. denies the allegations in paragraph 166, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 166 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

167. Atlas Turner, Inc. denies the allegations in paragraph 167, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 167 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

168. Atlas Turner, Inc. denies the allegations in paragraph 168, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 168 state legal conclusions

or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

169. Atlas Turner, Inc. denies the allegations in paragraph 169, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 169 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

170. Atlas Turner, Inc. denies the allegations in paragraph 170, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 170 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

171. Atlas Turner, Inc. denies the allegations in paragraph 171, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 171 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

172. Atlas Turner, Inc. denies the allegations in paragraph 172, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 172 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

173. Atlas Turner, Inc. denies the allegations in paragraph 173, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 173 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO FIFTH CAUSE OF ACTION
(Negligence Per Se)

174. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

175. Atlas Turner, Inc. denies the allegations in paragraph 175, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 175 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

176. Atlas Turner, Inc. denies the allegations in paragraph 176, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 176 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

177. Atlas Turner, Inc. denies the allegations in paragraph 177, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 177 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO SIXTH CAUSE OF ACTION
(Negligence as to Design Defendants)

178. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

179. The allegations in paragraph 179, including all subparts, are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

180. The allegations in paragraph 180 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO SEVENTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

181. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

182. The allegations in paragraph 182 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations

183. The allegations in paragraph 183, including all subparts, are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

184. The allegations in paragraph 184 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegation.

RESPONSE TO EIGHTH CAUSE OF ACTION
(Product Liability: Breach of Implied Warranties – S.C. Code Ann. § 36-2-314)

185. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

186. Atlas Turner, Inc. denies the allegations in paragraph 186, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 186 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

187. Atlas Turner, Inc. denies the allegations in paragraph 187, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 187 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

188. Atlas Turner, Inc. denies the allegations in paragraph 188, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 188 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO NINTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

189. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

190. Atlas Turner, Inc. denies the allegations in paragraph 190, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 190 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

191. Atlas Turner, Inc. denies the allegations in paragraph 191, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 191 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

192. Atlas Turner, Inc. denies the allegations in paragraph 192, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 192 state legal conclusions

or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO TENTH CAUSE OF ACTION
(Conspiracy, Concert of Action – Defendant Metropolitan Life Insurance Company)

193. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

194. The allegations in paragraph 194 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

195. The allegations in paragraph 195 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

196. The allegations in paragraph 196 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

197. The allegations in paragraph 197 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

198. The allegations in paragraph 198 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

199. The allegations in paragraph 199 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

200. The allegations in paragraph 200 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

201. The allegations in paragraph 201 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

202. The allegations in paragraph 202 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

203. The allegations in paragraph 203 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

204. The allegations in paragraph 204 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

205. The allegations in paragraph 205, including all subparts, are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

206. The allegations in paragraph 206 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

207. The allegations in paragraph 207 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO ELEVENTH CAUSE OF ACTION
(Loss of Consortium)

208. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

209. Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 209 and, therefore, denies the allegations.

210. Atlas Turner, Inc. denies the allegations in paragraph 210, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 210 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

211. Atlas Turner, Inc. denies the allegations in paragraph 211, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 211 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO "TWELFTH CAUSE OF ACTION"
(Alter Ego as to DCo, LLC and Enstar Holdings (US), LLC)

212. Paragraph 212 of the Complaint does not appear to be directed at this Defendant. To the extent it is directed at this Defendant, Atlas Turner, Inc. denies the same. To the extent that

this paragraph of the Complaint states legal conclusions, no response is required to those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

213. Paragraph 213 of this Complaint does not appear to be directed at this Defendant. To the extent it is directed at this Defendant, Atlas Turner, Inc. denies the same. To the extent that this paragraph of the Complaint states legal conclusions, no response is required to those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

214. Paragraph 214 of this Complaint does not appear to be directed at this Defendant. To the extent it is directed at this Defendant, Atlas Turner, Inc. denies the same. To the extent that this paragraph of the Complaint states legal conclusions, no response is required to those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

215. Paragraph 215 of this Complaint does not appear to be directed at this Defendant. To the extent it is directed at this Defendant, Atlas Turner, Inc. denies the same. To the extent that this paragraph of the Complaint states legal conclusions, no response is required to those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

216. Paragraph 216 of this Complaint does not appear to be directed at this Defendant. To the extent it is directed at this Defendant, Atlas Turner, Inc. denies the same. To the extent that this paragraph of the Complaint states legal conclusions, no response is required to those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

217. Paragraph 217 of this Complaint does not appear to be directed at this Defendant. To the extent it is directed at this Defendant, Atlas Turner, Inc. denies the same. To the extent that this paragraph of the Complaint states legal conclusions, no response is required to those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

218. Paragraph 218 of this Complaint does not appear to be directed at this Defendant. To the extent it is directed at this Defendant, Atlas Turner, Inc. denies the same. To the extent that this paragraph of the Complaint states legal conclusions, no response is required to those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

RESPONSE TO PRAYER FOR RELIEF

Atlas Turner, Inc. denies the allegations contained in the paragraph beginning with “Wherefore” and following underneath the “PRAYER FOR RELIEF” immediately following paragraph 218 of the Complaint, as well as those eleven (11) subparagraphs following that “Wherefore” paragraph of the Complaint, insofar as the allegations therein are directed against it. As to the remainder of the allegations, they do not apply to this Defendant, and therefore, this Defendant does not respond to same. To the extent that these paragraphs of the Complaint state legal conclusions, no response is required to those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

FOR A FIRST DEFENSE

219. This Court lacks both general and specific personal jurisdiction over Atlas Turner, Inc. Plaintiffs cannot meet the requirements of the South Carolina Long Arm Statute or the traditional due process requirements to assert personal jurisdiction over Atlas Turner, Inc. in South Carolina.

FOR A SECOND DEFENSE

220. Plaintiffs’ Complaint fails to state facts sufficient to constitute a cause of action against Atlas Turner, Inc. and therefore must be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

221. Plaintiffs' claims, in whole or in part, are barred by any applicable statutes of limitations and/or repose.

FOR A FOURTH DEFENSE

222. Plaintiffs' fraudulent misrepresentation claim must be dismissed because they failed to plead circumstances allegedly constituting fraud or mistake with particularity, as required by Rule 9(b) of the South Carolina Rules of Civil Procedure.

FOR A FIFTH DEFENSE

223. Plaintiffs' claims are barred by the doctrines of waiver, estoppel, laches, and unclean hands.

FOR A SIXTH DEFENSE

224. Plaintiffs voluntarily and knowingly assumed the risk of incurring any of the injuries or damages alleged and, therefore, are not entitled to recover from Atlas Turner, Inc.

FOR A SEVENTH DEFENSE

225. Plaintiffs' claims are barred, in whole or in part, by the comparative negligence of the Plaintiffs or Plaintiff Melvin G. Welch's father; in the alternative, any award to Plaintiffs should be reduced by the percentage that the Plaintiffs' or Plaintiff Melvin G. Welch's father's conduct caused Plaintiffs' damages.

FOR AN EIGHTH DEFENSE

226. Any injury or damage suffered by Plaintiffs was due to or caused by unforeseen intervening or superseding events for which Atlas Turner, Inc. is not responsible and, therefore, Plaintiffs' claims should be barred or reduced accordingly.

FOR A NINTH DEFENSE

227. Any damages suffered by Plaintiffs were caused by the acts or omissions of third parties and are not attributable to Atlas Turner, Inc.

FOR A TENTH DEFENSE

228. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs failed to mitigate their damages.

FOR AN ELEVENTH DEFENSE

229. Atlas Turner, Inc. did not owe any recognized legal duties to the Plaintiffs or Plaintiff Melvin G. Welch's father, and Plaintiffs' claims fail to state facts sufficient to make a legally cognizable cause of action against it. Therefore, Plaintiffs cannot recover against Atlas Turner, Inc.

FOR A TWELFTH DEFENSE

230. Atlas Turner, Inc.'s actions were at all times reasonable, appropriate, and in conformance with reasonable, ordinary, and due care.

FOR A THIRTEENTH DEFENSE

231. Should the jury find that Atlas Turner, Inc. was in any way a contributing proximate cause to the accident in question, which is denied, then Atlas Turner, Inc.'s liability was less than fifty percent of the total fault and it should be liable only for that percentage of the indivisible damages determined by the jury or trier of fact pursuant to S.C. Code Ann. § 15-38-15.

FOR A FOURTEENTH DEFENSE

232. Atlas Turner, Inc. is entitled to have the jury apportion fault to all potential tortfeasors, regardless of whether the other potential tortfeasors were named as defendants or are parties to the case. Denial of a full and fair apportionment of fault would deprive Atlas Turner,

Inc. of its constitutional rights to due process, equal protection, and a jury trial.

FOR A FIFTEENTH DEFENSE

233. Plaintiffs or Plaintiff Melvin G. Welch's father were not exposed to any asbestos materials through any act or omission of Atlas Turner, Inc. or, if any exposure occurred, which is denied, the exposure was of such insufficient quantities, at such infrequent intervals, for such short periods of time, or under such conditions as to amount to no proximate cause of Plaintiffs' damages, if any, as a matter of law. Therefore, Atlas Turner, Inc. denies that any of its products or any alleged action or inaction on its part damaged or injured Plaintiffs or Plaintiff Melvin G. Welch's father in any manner or at any time.

FOR A SIXTEENTH DEFENSE

234. Plaintiffs and others misused or improperly used the products allegedly manufactured and/or sold by Atlas Turner, Inc., if any exist, and such misuse or improper use proximately caused or contributed to, in whole or in part, the alleged conditions described in the Complaint and the alleged damages Plaintiffs claim were sustained, and, therefore, Atlas Turner, Inc. is not liable for any injuries or damages claimed by Plaintiffs.

FOR A SEVENTEENTH DEFENSE

235. Atlas Turner, Inc. is not liable to Plaintiffs with respect to the injuries alleged in the Complaint because such injuries, if any, were caused by pure accident in terms of law.

FOR AN EIGHTEENTH DEFENSE

236. There is a lack of joinder of one or more parties who should or must be joined and, without the joinder of these proper parties, complete relief cannot be accorded among those already attempted to be made parties to this civil action.

FOR A NINETEENTH DEFENSE

237. To the extent that Plaintiffs have received payment from any alleged joint tortfeasor in full satisfaction of any of the alleged injuries and/or claims against Atlas Turner, Inc. and/or other alleged joint tortfeasors, Plaintiffs' claims are barred by the defenses of payment and accord and satisfaction.

FOR A TWENTIETH DEFENSE

238. Should Plaintiffs recover, Atlas Turner, Inc. is entitled to and hereby requests an offset in any amounts Plaintiffs have obtained through settlements with others.

FOR A TWENTY-FIRST DEFENSE

239. Plaintiffs' Complaint fails to set forth a claim for punitive damages upon which relief may be granted.

FOR A TWENTY-SECOND DEFENSE

240. Pursuant to S.C. Code Ann. § 15-32-520, Atlas Turner, Inc. hereby requests trial bifurcation on the issues of actual damages and punitive damages. To the extent the Court submits the question of punitive damages to the jury, the award of punitive damages, if any, is subject to the caps and limitations set forth in S.C. Code Ann. § 15-32-530, and Atlas Turner, Inc. pleads and

incorporates all defenses, limitations on damages, and other privileges contained in S.C. Code Ann. §§ 15-32-520 and 15-32-530 as if fully stated herein verbatim.

FOR A TWENTY-THIRD DEFENSE

241. To the extent Plaintiffs' Complaint asserts a demand for punitive damages, Atlas Turner, Inc. specifically incorporates by reference any and all standards of limitations regarding the determination and/or enforceability of punitive damage awards that arose in the decisions of *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996); *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001); and *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003).

FOR A TWENTY-FOURTH DEFENSE

242. Plaintiffs are not entitled to an award of punitive damages because, among other reasons, such damages violate the Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that:

- (a) The South Carolina judiciary's ability to correct a punitive damages award at the appellate level is inconsistent with due process guarantees;
- (b) Any award of punitive damages serving a compensatory function is inconsistent with due process guarantees;
- (c) To the extent an award of punitive damages is excessive, such award violates due process guarantees;
- (d) The jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of meaningful standards and is inconsistent with due process guarantee;
- (e) Even if it could be argued that the standard governing the imposition of punitive damages exists, the standard is void for vagueness; and
- (f) The claim for punitive damages violates the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and Article I, Section 3 of the South Carolina Constitution in

that the amount of punitive damages is based upon the wealth and status of Atlas Turner, Inc.

FOR A TWENTY-FIFTH DEFENSE

243. Atlas Turner, Inc. at all times used reasonable care, skill, and diligence and complied with generally established and accepted standards in the industry.

FOR A TWENTY-SIXTH DEFENSE

244. Atlas Turner, Inc. had no duty to warn Plaintiffs or Plaintiff Melvin G. Welch's father of the risks and dangers, if any, associated with asbestos or asbestos-related products. Atlas Turner, Inc. further had no post-sale duty to warn under South Carolina law.

FOR A TWENTY-SEVENTH DEFENSE

245. There has been no concert of action between Atlas Turner, Inc. and any of the other named defendants. The defendants are not joint tortfeasors and, therefore, Atlas Turner, Inc. may not be held jointly and severally liable with the other named defendants.

FOR A TWENTY-EIGHTH DEFENSE

246. If Plaintiffs sustained the injuries and/or damages alleged, which is denied, then such injuries and/or damages were proximately caused by the acts and/or omissions of Plaintiffs' employers with respect to the maintenance of a healthy and safe work site and environment, which were under the employers' exclusive control and possession.

FOR A TWENTY-NINTH DEFENSE

247. Venue is improper in this action. Atlas Turner, Inc. reserves its rights to move for dismissal and/or transfer of the action based on improper and/or inconvenient venue and further reserves its rights to seek application of the law of the appropriate venue on all issues, including but not limited to statute of limitations, statute of repose, and punitive damages.

FOR A THIRTIETH DEFENSE

248. Plaintiffs' Complaint should be dismissed for its failure to comply with the requirements of section 44-135-10 et seq. of the South Carolina Code, also known as the "Asbestos and Silica Claims Procedure Act of 2006," because Plaintiffs have failed to make the prima facie showing required by the Act. In the alternative, the case should not be placed on any active trial docket and should not be the subject of any discovery until Plaintiffs comply with the provisions of the Act.

FOR A THIRTY-FIRST DEFENSE

249. Atlas Turner, Inc. is not liable to Plaintiffs because Plaintiffs' injuries were not caused by any products manufactured, sold, or otherwise placed into the stream of commerce by Atlas Turner, Inc.

FOR A THIRTY-SECOND DEFENSE

250. To the extent that any of the foregoing affirmative defenses would preclude recovery on the claims asserted on behalf of Plaintiff Melvin G. Welch, Plaintiff Donna B. Welch's loss of consortium claims also fail because they are solely derivative of the claims asserted on behalf of Plaintiff Melvin G. Welch.

FOR A THIRTY-THIRD DEFENSE

251. Plaintiffs cannot satisfy the frequency, regularity, and proximity test as to Atlas Turner, Inc. under *Henderson v. Allied-Signal, Inc.*, 373 S.C. 179, 644 S.E.2d 724 (2007).

FOR A THIRTY-FOURTH DEFENSE

252. Atlas Turner, Inc. is not liable to Plaintiffs because Plaintiffs' or Plaintiff Melvin G. Welch's father's employer(s), union, or entities other than Atlas Turner, Inc. were learned intermediaries and/or sophisticated users of the products in question who were warned of, were

otherwise aware of, or should have been aware of the alleged potential risks and dangers inherent in the product(s), were in a position to understand and inform Plaintiffs or Plaintiff Melvin G. Welch's father of the alleged risks, and had an independent duty to protect Plaintiffs or Plaintiff Melvin G. Welch's father from, and/or warn Plaintiffs or Plaintiff Melvin G. Welch's father of, any alleged potential risks or dangers, thereby relieving Atlas Turner, Inc. of any alleged duty.

FOR A THIRTY-FIFTH DEFENSE

253. To the extent the injury complained of occurred outside South Carolina, under the doctrine of *lex loci delicti* or its analogues, the law of the state or non-state jurisdiction in which the injury occurred applies.

FOR A THIRTY-SIXTH DEFENSE

254. Plaintiffs' claims are barred by the applicable statutory or special employee/employer and/or workers' compensation laws.

FOR A THIRTY-SEVENTH DEFENSE

255. Atlas Turner, Inc. had no duty to warn Plaintiffs or Plaintiff Melvin G. Welch's father because the hazards of asbestos were open and obvious and Plaintiffs and Plaintiff Melvin G. Welch's father and/or their employers knew or should have known of the hazard.

FOR A THIRTY-EIGHTH DEFENSE

256. Atlas Turner, Inc.'s alleged premises, if any are at issue, were or may have been under contract with or controlled by the United States Government or its agencies pursuant to contract. The knowledge of the United States Government or its agencies pertaining to the possible hazards to Plaintiffs was equal to or superior to that of Atlas Turner, Inc. and, by reason thereof, Atlas Turner, Inc. is not liable to Plaintiffs under any theory of law asserted in this civil

action.

FOR A THIRTY-NINTH DEFENSE

257. If any alleged asbestos-containing products manufactured or supplied by Atlas Turner, Inc. or used on premises owned or operated by Atlas Turner, Inc. were involved or in any manner alleged in any of Plaintiffs' claims, Atlas Turner, Inc. asserts that the products were abused, misused, or otherwise substantially altered or changed in their condition by others. Atlas Turner, Inc. cannot be held liable for any injury or disease caused by any such abuse, misuse, or alteration.

FOR A FORTIETH DEFENSE

258. The allegations against Atlas Turner, Inc., regarding asbestos products allegedly having a legal connection with it, must be evaluated according to the state of the medical and industrial art and the state of the law existing at the pertinent time. Atlas Turner, Inc. invokes all state-of-the-art defenses applicable to Plaintiffs' claims. Further, the state of the art, *i.e.*, the science of medicine, industrial hygiene and industrial application of asbestos-containing products, was at all material times such that Atlas Turner, Inc. neither breached any duty allegedly owed to Plaintiffs or Plaintiff Melvin G. Welch's father, nor did Atlas Turner, Inc. know, nor could it have known, that the use of any asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products presented a foreseeable risk of harm to Plaintiffs or others.

FOR A FORTY-FIRST DEFENSE

259. Plaintiffs cannot recover against Atlas Turner, Inc. under any failure to warn or inadequacy of warnings theory because, at all times pertinent to Plaintiffs' claims, Plaintiff or Plaintiff Melvin G. Welch's father possessed or should have possessed sufficient knowledge which

negated any need for any warning and/or were required to follow specific written safety procedures as established by the employer which negated the need or requirement for any such warning.

FOR A FORTY-SECOND DEFENSE

260. Atlas Turner, Inc. pleads that punitive damages may not be awarded against it because to do that would violate the complicity rule which bars the imposition of vicarious liability for punitive damages with the exception of certain circumstances not applicable here. *See* Restatement (Second) of Torts § 909. Any acts, statements, representations or omissions by persons or entities other than Atlas Turner, Inc. that caused damage to Plaintiffs, which Atlas Turner, Inc. does not concede, were not authorized by Atlas Turner, Inc. and were not performed or given with actual, implied, or apparent authority of Atlas Turner, Inc.

FOR A FORTY-THIRD DEFENSE

261. All of Plaintiffs' claims and issues contained therein are barred by the doctrines of collateral estoppel and *res judicata*.

FOR A FORTY-FOURTH DEFENSE

262. At all pertinent times, any asbestos-containing products supplied or used by Atlas Turner, Inc. complied with all industry standards and all reasonable standards, as well as federal and state standards and regulations governing any asbestos-containing products, and as such the products were not unsafe, unfit, or unreasonably dangerous for normal use or operation.

FOR A FORTY-FIFTH DEFENSE

263. Atlas Turner, Inc. is not liable for the acts or omissions of independent contractors.

FOR A FORTY-SIXTH DEFENSE

264. Plaintiffs' design defect claims are barred because no reasonable alternative design existed at the time Plaintiffs or Plaintiff Melvin G. Welch's father allegedly encountered any product for which Atlas Turner, Inc. may be responsible.

FOR A FORTY-SEVENTH DEFENSE

265. Atlas Turner, Inc. is not legally responsible for products that it did not manufacture, sell, supply, or otherwise place in the stream of commerce; and Atlas Turner, Inc. is not legally responsible for products manufactured, sold, or supplied by third parties, such as replacement parts or "after affixed" parts.

FOR A FORTY-EIGHTH DEFENSE

266. Plaintiffs lack capacity to sue Atlas Turner, Inc. in South Carolina under the door-closing statute, S.C. Code Ann. § 15-5-150.

FOR A FORTY-NINTH DEFENSE

267. Plaintiffs' strict liability claims are barred because any products at issue were placed into the stream of commerce prior to the enactment of S.C. Code Ann. § 15-73-10, which does not apply retroactively.

FOR A FIFTIETH DEFENSE

268. If Plaintiffs were injured by any products supplied or manufactured by Atlas Turner, Inc. or any of its predecessors, or any products located on the alleged premises of Atlas Turner, Inc. or any of its predecessors, which is denied, Plaintiffs or Plaintiff Melvin G. Welch's father discovered any defect in the products and was aware of the dangers thereof but nevertheless proceeded unreasonably to make use of the same and is therefore barred from recovery by S.C. Code Ann. § 15-73-20.

FOR A FIFTY-FIRST DEFENSE

269. Plaintiffs cannot satisfy their burden to prove Plaintiff Melvin G. Welch was exposed to asbestos from products attributable to Atlas Turner, Inc. and cannot prove any such products contained asbestos.

FOR A FIFTY-SECOND DEFENSE

270. To the extent Plaintiffs prove that any products Atlas Turner, Inc. sold or installed contained asbestos, which is denied, Plaintiffs cannot prove that the asbestos therein was in a friable form or otherwise inhalable by Plaintiff Melvin G. Welch.

FOR A FIFTY-THIRD DEFENSE

271. Atlas Turner, Inc. adopts and asserts any and all applicable defenses asserted by any other defendant in this action.

JURY TRIAL DEMAND

This Defendant requests trial by jury by all issues so triable.

WHEREFORE, having fully responded to the allegations of Plaintiffs' Complaint and having asserted the above-noted other defenses, Defendant Atlas Turner, Inc. requests of the Court as follows:

1. That Plaintiffs have and recover nothing from Atlas Turner, Inc. by means of this action;
2. That Atlas Turner, Inc. recover its costs for this action, including attorneys' fees and expenses; and
3. For such other and further relief as the Court may deem just and proper.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Atlas Turner, Inc.

Columbia, South Carolina

April 24, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
DONNA B. WELCH, individually and as	)	CASE NO. 2022-CP-40-03834
Personal Representative of the Estate of	)	
MELVIN G. WELCH, deceased,	)	
	)	
Plaintiff,	)	ANSWER AND DEFENSES OF
	)	DEFENDANT ATLAS TURNER, INC.,
vs.	)	ON BEHALF OF ITSELF AND
	)	DEFENDANT ATLAS ASBESTOS CO.
	)	TO PLAINTIFFS'
ADVANCE AUTO PARTS, INC., et al.	)	FOURTH AMENDED COMPLAINT
	)	
Defendants.	)	(Jury Trial Requested)
	)	

Comes now, Defendant Atlas Turner, Inc. sued incorrectly as Atlas Turner, Inc., as successor to Atlas Asbestos Co. ("Atlas Turner, Inc." or "Defendant"), on behalf of itself and Defendant Atlas Asbestos Co.,¹ by and through undersigned counsel, and presents the following Answers and Defenses to Plaintiffs' Fourth Amended Complaint ("Complaint").

Atlas Turner understands the court's prior rulings on its earlier motions and its position regarding personal jurisdiction and striking Atlas Turner's answer to Plaintiff's Third Amended Complaint. This answer does not seek to disregard any prior ruling, nor does it seek to cause any delay. With the utmost respect and in an abundance of caution to preserve the record, Atlas Turner, Inc. responds to the allegations of the Complaint as follows subject to its motion to dismiss:

GENERAL DENIAL

Each and every allegation of the Complaint is expressly denied unless specifically admitted, qualified, or explained herein.

EXHIBIT

5.2

¹ Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

RESPONSE TO GENERAL ALLEGATIONS

1. Paragraph 1 states legal conclusions to which no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

2. Atlas Turner, Inc. denies the allegations in paragraph 2, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 2 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

3. Atlas Turner, Inc. denies the allegations in paragraph 3, including all subparts, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 3 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

4. Atlas Turner, Inc. denies the allegations in paragraph 4, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 4 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

5. Atlas Turner, Inc. denies the allegations in paragraph 5, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 5 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

6. Atlas Turner, Inc. denies the allegations in paragraph 6, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 6 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

7. Atlas Turner, Inc. denies the allegations in paragraph 7, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 7 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

8. Atlas Turner, Inc. denies the allegations in paragraph 8, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 8 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

9. Atlas Turner, Inc. denies the allegations in paragraph 9, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 9 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

10. Atlas Turner, Inc. denies the allegations in paragraph 10, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 10 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

11. Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 11 and, therefore, denies the allegations.

12. Atlas Turner, Inc. denies the allegations in paragraph 12, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 12 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

13. Atlas Turner, Inc. denies the allegations in paragraph 13, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 13 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

14. Atlas Turner, Inc. denies the allegations in paragraph 14, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 14 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

15. Atlas Turner, Inc. denies the allegations in paragraph 15, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 15 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

16. Atlas Turner, Inc. denies the allegations in paragraph 16, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 16 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

17. Atlas Turner, Inc. denies the allegations in paragraph 17, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 17 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

18. Atlas Turner, Inc. denies the allegations in paragraph 18, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 18 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

19. Paragraph 19 affirmatively disclaims any cause of action related to (a) any United States armed forces service, (b) any federal enclave, (c) the United States Constitution or any federal law or regulations, and (d) federal admiralty or maritime law. To the extent that Plaintiffs' allegations of exposure to asbestos against Atlas Turner, Inc. derive from service in the United States armed forces or at any federal enclave, or to the extent that Plaintiff attempts to assert a claim against Atlas Turner, Inc. that arises under federal law or regulation or under federal admiralty or maritime law, those allegations are now expressly waived and the Complaint must be dismissed as to Atlas Turner, Inc. Atlas Turner, Inc. denies any remaining allegations in paragraph 19.

RESPONSE TO THE PARTIES

20. Atlas Turner, Inc. denies the allegations in paragraph 20, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 20 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

21. The allegations in paragraph 21 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

22. The allegations in paragraph 22 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

23. Defendant Atlas Asbestos Co. was a Canadian Company, and it changed its name to Atlas Turner, Inc.; the proper name of the company is Atlas Turner, Inc. The remaining allegations contained in paragraph 23 of the Complaint are denied. Defendant specifically denies that the Court has jurisdiction over it in this case.

24. Defendant Atlas Turner, Inc. admits that it is a corporation organized and existing under the laws of Canada, that its principal place of business was in Quebec, and that it is headquartered in the Province of Quebec. Atlas Turner, Inc. denies the remaining allegations contained in paragraph 24 of the Complaint. Defendant specifically denies that this court has jurisdiction over it in this case.

25. The allegations in paragraph 25 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

26. The allegations in paragraph 26 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

27. The allegations in paragraph 27 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

28. The allegations in paragraph 28 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

29. The allegations in paragraph 29 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

30. The allegations in paragraph 30 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

31. The allegations in paragraph 31 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

32. The allegations in paragraph 32 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

33. The allegations in paragraph 33 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

34. The allegations in paragraph 34 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

35. The allegations in paragraph 35 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

36. The allegations in paragraph 36 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

37. The allegations in paragraph 37 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

38. The allegations in paragraph 38 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

39. The allegations in paragraph 39 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

40. The allegations in paragraph 40 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

41. The allegations in paragraph 41 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

42. The allegations in paragraph 42 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

43. The allegations in paragraph 43 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

44. The allegations in paragraph 44 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

45. The allegations in paragraph 45 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

46. The allegations in paragraph 46 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

47. The allegations in paragraph 47 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

48. The allegations in paragraph 48 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

49. The allegations in paragraph 49 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

50. The allegations in paragraph 50 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

51. The allegations in paragraph 51 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

52. The allegations in paragraph 52 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO BACKGROUND FACTS

53. Atlas Turner, Inc. denies the allegations in paragraph 53, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 53 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

54. Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 54 and, therefore, denies the allegations.

55. Atlas Turner, Inc. denies the allegations in paragraph 55, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 55 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

56. Atlas Turner, Inc. denies the allegations in paragraph 56, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 56 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 56 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

57. Atlas Turner, Inc. denies the allegations in paragraph 57, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 57 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 57 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

58. Atlas Turner, Inc. denies the allegations in paragraph 58, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 58 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 58 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

59. Atlas Turner, Inc. denies the allegations in paragraph 59, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 59 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 59 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

60. Atlas Turner, Inc. denies the allegations in paragraph 60, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 60 that contain

allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 60 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

61. Atlas Turner, Inc. denies the allegations in paragraph 61, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 61 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 61 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

62. Atlas Turner, Inc. denies the allegations in paragraph 62, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 62 that contain allegations about Plaintiff Melvin G. Welch's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 62 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

63. Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 63 and, therefore, denies the allegations.

64. Atlas Turner, Inc. denies the allegations in paragraph 64, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 64 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

65. Atlas Turner, Inc. denies the allegations in paragraph 65, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 65 that contain allegations about Plaintiff Melvin G. Welch's father's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 65 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

66. Atlas Turner, Inc. denies the allegations in paragraph 66, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 66 that contain allegations about Plaintiff Melvin G. Welch's father's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 66 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

67. Atlas Turner, Inc. denies the allegations in paragraph 67, insofar as the allegations pertain to Atlas Turner, Inc. As to those allegations contained in paragraph 67 that contain allegations about Plaintiff Melvin G. Welch's father's work history, Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it

therefore denies the allegations. Any remaining allegations in paragraph 67 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

68. Atlas Turner, Inc. denies the allegations in paragraph 68, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 68 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

69. Atlas Turner, Inc. denies the allegations in paragraph 69, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 69 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

70. Atlas Turner, Inc. denies the allegations in paragraph 70, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 70 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

71. Atlas Turner, Inc. denies the allegations in paragraph 71, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 71 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

72. Atlas Turner, Inc. denies the allegations in paragraph 72, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 72 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

73. Atlas Turner, Inc. denies the allegations in paragraph 73, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 73 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO FIRST CAUSE OF ACTION
(Product Liability: Negligence)

74. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

75. Atlas Turner, Inc. denies the allegations in paragraph 75, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 75 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

76. Atlas Turner, Inc. denies the allegations in paragraph 76, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 76 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

77. Atlas Turner, Inc. denies the allegations in paragraph 77, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 77 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

78. Atlas Turner, Inc. denies the allegations in paragraph 78, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 78 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

79. Atlas Turner, Inc. denies the allegations in paragraph 79, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 79 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

80. Atlas Turner, Inc. denies the allegations in paragraph 80, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 80 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

81. Atlas Turner, Inc. denies the allegations in paragraph 81, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 81 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

82. Atlas Turner, Inc. denies the allegations in paragraph 82, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 82 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

83. Atlas Turner, Inc. denies the allegations in paragraph 83, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 83 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

84. Atlas Turner, Inc. denies the allegations in paragraph 84, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 84 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

85. Atlas Turner, Inc. denies the allegations in paragraph 85, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 85 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

86. Atlas Turner, Inc. denies the allegations in paragraph 86, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 86 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

87. Atlas Turner, Inc. denies the allegations in paragraph 87, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 87 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

88. Atlas Turner, Inc. denies the allegations in paragraph 88, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 88 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

89. Atlas Turner, Inc. denies the allegations in paragraph 89, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 89 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO SECOND CAUSE OF ACTION
(Product Liability: Strict Liability – S.C. Code Ann. § 15-73-10, et seq.)

90. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

91. Atlas Turner, Inc. denies the allegations in paragraph 91, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 91 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

92. Atlas Turner, Inc. denies the allegations in paragraph 92, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 92 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

93. Atlas Turner, Inc. denies the allegations in paragraph 93, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 93 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

94. Atlas Turner, Inc. denies the allegations in paragraph 94, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 94 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

95. Atlas Turner, Inc. denies the allegations in paragraph 95, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 95 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

96. Atlas Turner, Inc. denies the allegations in paragraph 96, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 96 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

97. Atlas Turner, Inc. denies the allegations in paragraph 97, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 97 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

98. Atlas Turner, Inc. denies the allegations in paragraph 98, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 98 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

99. Atlas Turner, Inc. denies the allegations in paragraph 99, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 99 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

100. Atlas Turner, Inc. denies the allegations in paragraph 100, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 100 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

101. Atlas Turner, Inc. denies the allegations in paragraph 101, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 101 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

102. Atlas Turner, Inc. denies the allegations in paragraph 102, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 102 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

103. Atlas Turner, Inc. denies the allegations in paragraph 103, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 103 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

104. Atlas Turner, Inc. denies the allegations in paragraph 104, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 104 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

105. Atlas Turner, Inc. denies the allegations in paragraph 105, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 105 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

106. Atlas Turner, Inc. denies the allegations in paragraph 106, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 106 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondent Superior)

107. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

108. Atlas Turner, Inc. denies the allegations in paragraph 108, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 108 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

109. Atlas Turner, Inc. denies the allegations in paragraph 109, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 109 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

110. Atlas Turner, Inc. denies the allegations in paragraph 110, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 110 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

111. Atlas Turner, Inc. denies the allegations in paragraph 111, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 111 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

112. Atlas Turner, Inc. denies the allegations in paragraph 112, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 112 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

113. Atlas Turner, Inc. denies the allegations in paragraph 113, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 113 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

114. Atlas Turner, Inc. denies the allegations in paragraph 114, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 114 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

115. Atlas Turner, Inc. denies the allegations in paragraph 115, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 115 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

116. Atlas Turner, Inc. denies the allegations in paragraph 116, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 116 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

117. Atlas Turner, Inc. denies the allegations in paragraph 117, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 117 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

118. Atlas Turner, Inc. denies the allegations in paragraph 118, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 118 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

119. Atlas Turner, Inc. denies the allegations in paragraph 119, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 119 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

120. Atlas Turner, Inc. denies the allegations in paragraph 120, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 120 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

121. Atlas Turner, Inc. denies the allegations in paragraph 121, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 121 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

122. Atlas Turner, Inc. denies the allegations in paragraph 122, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 122 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

123. Atlas Turner, Inc. denies the allegations in paragraph 123, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 123 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO FOURTH CAUSE OF ACTION
(Negligence Per Se)

124. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

125. Atlas Turner, Inc. denies the allegations in paragraph 125, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 125 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

126. Atlas Turner, Inc. denies the allegations in paragraph 126, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 126 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

127. Atlas Turner, Inc. denies the allegations in paragraph 127, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 127 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO FIFTH CAUSE OF ACTION
(Negligence as to Design Defendants)

128. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

129. The allegations in paragraph 129, including all subparts, are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

130. The allegations in paragraph 130 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO SIXTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

131. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

132. The allegations in paragraph 132 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

133. The allegations in paragraph 133, including all subparts, are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

134. The allegations in paragraph 134 are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO SEVENTH CAUSE OF ACTION
(Product Liability: Breach of Implied Warranties – S.C. Code Ann. § 36-2-314)

135. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

136. Atlas Turner, Inc. denies the allegations in paragraph 136, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 136 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

137. Atlas Turner, Inc. denies the allegations in paragraph 137, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 137 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

138. Atlas Turner, Inc. denies the allegations in paragraph 138, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 138 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO EIGHTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

139. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

140. Atlas Turner, Inc. denies the allegations in paragraph 140, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 140 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

141. Atlas Turner, Inc. denies the allegations in paragraph 141, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 141 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

142. Atlas Turner, Inc. denies the allegations in paragraph 142, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 142 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO NINTH CAUSE OF ACTION
(Loss of Consortium)

143. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

144. Atlas Turner, Inc. is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 144 and, therefore, denies the allegations.

145. Atlas Turner, Inc. denies the allegations in paragraph 145, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 145 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

146. Atlas Turner, Inc. denies the allegations in paragraph 146, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 146 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO TENTH CAUSE OF ACTION
(Wrongful Death Action, S.C. Code Ann. § 15-51-10 et seq.)

147. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

148. Atlas Turner, Inc. denies the allegations in paragraph 148, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 148 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

149. Atlas Turner, Inc. denies the allegations in paragraph 149, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 149 state legal conclusions or

are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO ELEVENTH CAUSE OF ACTION
(Wrongful Death Action, S.C. Code Ann. § 15-5-90)

150. Atlas Turner, Inc. incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

151. Atlas Turner, Inc. denies the allegations in paragraph 151, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 151 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

152. Atlas Turner, Inc. denies the allegations in paragraph 152, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 152 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

153. Atlas Turner, Inc. denies the allegations in paragraph 153, insofar as the allegations pertain to Atlas Turner, Inc. Any remaining allegations in paragraph 153 state legal conclusions or are not directed at Atlas Turner, Inc., and therefore no response is required. To the extent a response is required, Atlas Turner, Inc. denies the allegations.

RESPONSE TO PRAYER FOR RELIEF

154. Atlas Turner, Inc. denies the allegations contained in the paragraph beginning with “Wherefore” and following underneath the “PRAYER FOR RELIEF” immediately following paragraph 153 of the Complaint, as well as those ten (10) subparagraphs following that “Wherefore” paragraph of the Complaint, insofar as the allegations therein are directed against it.

a. As to the remainder of the allegations, they do not apply to this Defendant, and therefore, this Defendant does not respond to same. To the extent that these paragraphs of the Complaint state legal conclusions, no response is required to those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

FOR A FIRST DEFENSE

154. This Court lacks both general and specific personal jurisdiction over Atlas Turner, Inc. Plaintiffs cannot meet the requirements of the South Carolina Long Arm Statute or the traditional due process requirements to assert personal jurisdiction over Atlas Turner, Inc. in South Carolina.

FOR A SECOND DEFENSE

155. Plaintiffs' Complaint fails to state facts sufficient to constitute a cause of action against Atlas Turner, Inc. and therefore must be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

156. Plaintiffs' claims, in whole or in part, are barred by any applicable statutes of limitations and/or repose.

FOR A FOURTH DEFENSE

157. Plaintiffs' fraudulent misrepresentation claim must be dismissed because they failed to plead circumstances allegedly constituting fraud or mistake with particularity, as required by Rule 9(b) of the South Carolina Rules of Civil Procedure.

FOR A FIFTH DEFENSE

158. Plaintiffs' claims are barred by the doctrines of waiver, estoppel, laches, and unclean hands.

FOR A SIXTH DEFENSE

159. Plaintiffs voluntarily and knowingly assumed the risk of incurring any of the injuries or damages alleged and, therefore, are not entitled to recover from Atlas Turner, Inc.

FOR A SEVENTH DEFENSE

160. Plaintiffs' claims are barred, in whole or in part, by the comparative negligence of the Plaintiffs or Plaintiff Melvin G. Welch's father; in the alternative, any award to Plaintiffs should be reduced by the percentage that the Plaintiffs' or Plaintiff Melvin G. Welch's father's conduct caused Plaintiffs' damages.

FOR AN EIGHTH DEFENSE

161. Any injury or damage suffered by Plaintiffs was due to or caused by unforeseen intervening or superseding events for which Atlas Turner, Inc. is not responsible and, therefore, Plaintiffs' claims should be barred or reduced accordingly.

FOR A NINTH DEFENSE

162. Any damages suffered by Plaintiffs were caused by the acts or omissions of third parties and are not attributable to Atlas Turner, Inc.

FOR A TENTH DEFENSE

163. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs failed to mitigate their damages.

FOR AN ELEVENTH DEFENSE

164. Atlas Turner, Inc. did not owe any recognized legal duties to the Plaintiffs or Plaintiff Melvin G. Welch's father, and Plaintiffs' claims fail to state facts sufficient to make a legally cognizable cause of action against it. Therefore, Plaintiffs cannot recover against Atlas Turner, Inc.

FOR A TWELFTH DEFENSE

165. Atlas Turner, Inc.'s actions were at all times reasonable, appropriate, and in conformance with reasonable, ordinary, and due care.

FOR A THIRTEENTH DEFENSE

166. Should the jury find that Atlas Turner, Inc. was in any way a contributing proximate cause to the accident in question, which is denied, then Atlas Turner, Inc.'s liability was less than fifty percent of the total fault and it should be liable only for that percentage of the indivisible damages determined by the jury or trier of fact pursuant to S.C. Code Ann. § 15-38-15.

FOR A FOURTEENTH DEFENSE

167. Atlas Turner, Inc. is entitled to have the jury apportion fault to all potential tortfeasors, regardless of whether the other potential tortfeasors were named as defendants or are parties to the case. Denial of a full and fair apportionment of fault would deprive Atlas Turner, Inc. of its constitutional rights to due process, equal protection, and a jury trial.

FOR A FIFTEENTH DEFENSE

168. Plaintiffs or Plaintiff Melvin G. Welch's father were not exposed to any asbestos materials through any act or omission of Atlas Turner, Inc. or, if any exposure occurred, which is denied, the exposure was of such insufficient quantities, at such infrequent intervals, for such short periods of time, or under such conditions as to amount to no proximate cause of Plaintiffs' damages, if any, as a matter of law. Therefore, Atlas Turner, Inc. denies that any of its products or any alleged action or inaction on its part damaged or injured Plaintiffs or Plaintiff Melvin G. Welch's father in any manner or at any time.

FOR A SIXTEENTH DEFENSE

169. Plaintiffs and others misused or improperly used the products allegedly manufactured and/or sold by Atlas Turner, Inc., if any exist, and such misuse or improper use proximately caused or contributed to, in whole or in part, the alleged conditions described in the Complaint and the alleged damages Plaintiffs claim were sustained, and, therefore, Atlas Turner, Inc. is not liable for any injuries or damages claimed by Plaintiffs.

FOR A SEVENTEENTH DEFENSE

170. Atlas Turner, Inc. is not liable to Plaintiffs with respect to the injuries alleged in the Complaint because such injuries, if any, were caused by pure accident in terms of law.

FOR AN EIGHTEENTH DEFENSE

171. There is a lack of joinder of one or more parties who should or must be joined and, without the joinder of these proper parties, complete relief cannot be accorded among those already attempted to be made parties to this civil action.

FOR A NINETEENTH DEFENSE

172. To the extent that Plaintiffs have received payment from any alleged joint tortfeasor in full satisfaction of any of the alleged injuries and/or claims against Atlas Turner, Inc. and/or other alleged joint tortfeasors, Plaintiffs' claims are barred by the defenses of payment and accord and satisfaction.

FOR A TWENTIETH DEFENSE

173. Should Plaintiffs recover, Atlas Turner, Inc. is entitled to and hereby requests an offset in any amounts Plaintiffs have obtained through settlements with others.

FOR A TWENTY-FIRST DEFENSE

174. Plaintiffs' Complaint fails to set forth a claim for punitive damages upon which relief may be granted.

FOR A TWENTY-SECOND DEFENSE

175. Pursuant to S.C. Code Ann. § 15-32-520, Atlas Turner, Inc. hereby requests trial bifurcation on the issues of actual damages and punitive damages. To the extent the Court submits the question of punitive damages to the jury, the award of punitive damages, if any, is subject to the caps and limitations set forth in S.C. Code Ann. § 15-32-530, and Atlas Turner, Inc. pleads and incorporates all defenses, limitations on damages, and other privileges contained in S.C. Code Ann. §§ 15-32-520 and 15-32-530 as if fully stated herein verbatim.

FOR A TWENTY-THIRD DEFENSE

176. To the extent Plaintiffs' Complaint asserts a demand for punitive damages, Atlas Turner, Inc. specifically incorporates by reference any and all standards of limitations regarding the determination and/or enforceability of punitive damage awards that arose in the decisions of *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996); *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001); and *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003).

FOR A TWENTY-FOURTH DEFENSE

177. Plaintiffs are not entitled to an award of punitive damages because, among other reasons, such damages violate the Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that:

- (a) The South Carolina judiciary's ability to correct a punitive damages award at the appellate level is inconsistent with due process guarantees;
- (b) Any award of punitive damages serving a compensatory function is inconsistent with due process guarantees;

- (c) To the extent an award of punitive damages is excessive, such award violates due process guarantees;
- (d) The jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of meaningful standards and is inconsistent with due process guarantee;
- (e) Even if it could be argued that the standard governing the imposition of punitive damages exists, the standard is void for vagueness; and
- (f) The claim for punitive damages violates the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and Article I, Section 3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth and status of Atlas Turner, Inc.

FOR A TWENTY-FIFTH DEFENSE

178. Atlas Turner, Inc. at all times used reasonable care, skill, and diligence and complied with generally established and accepted standards in the industry.

FOR A TWENTY-SIXTH DEFENSE

179. Atlas Turner, Inc. had no duty to warn Plaintiffs or Plaintiff Melvin G. Welch's father of the risks and dangers, if any, associated with asbestos or asbestos-related products. Atlas Turner, Inc. further had no post-sale duty to warn under South Carolina law.

FOR A TWENTY-SEVENTH DEFENSE

180. There has been no concert of action between Atlas Turner, Inc. and any of the other named defendants. The defendants are not joint tortfeasors and, therefore, Atlas Turner, Inc. may not be held jointly and severally liable with the other named defendants.

FOR A TWENTY-EIGHTH DEFENSE

181. If Plaintiffs sustained the injuries and/or damages alleged, which is denied, then such injuries and/or damages were proximately caused by the acts and/or omissions of Plaintiffs' employers with respect to the maintenance of a healthy and safe work site and environment, which were under the employers' exclusive control and possession.

FOR A TWENTY-NINTH DEFENSE

182. Venue is improper in this action. Atlas Turner, Inc. reserves its rights to move for dismissal and/or transfer of the action based on improper and/or inconvenient venue and further reserves its rights to seek application of the law of the appropriate venue on all issues, including but not limited to statute of limitations, statute of repose, and punitive damages.

FOR A THIRTIETH DEFENSE

183. Plaintiffs' Complaint should be dismissed for its failure to comply with the requirements of section 44-135-10 et seq. of the South Carolina Code, also known as the "Asbestos and Silica Claims Procedure Act of 2006," because Plaintiffs have failed to make the prima facie showing required by the Act. In the alternative, the case should not be placed on any active trial docket and should not be the subject of any discovery until Plaintiffs comply with the provisions of the Act.

FOR A THIRTY-FIRST DEFENSE

184. Atlas Turner, Inc. is not liable to Plaintiffs because Plaintiffs' injuries were not caused by any products manufactured, sold, or otherwise placed into the stream of commerce by Atlas Turner, Inc.

FOR A THIRTY-SECOND DEFENSE

185. To the extent that any of the foregoing affirmative defenses would preclude recovery on the claims asserted on behalf of Plaintiff Melvin G. Welch, Plaintiff Donna B. Welch's loss of consortium claims also fail because they are solely derivative of the claims asserted on behalf of Plaintiff Melvin G. Welch.

FOR A THIRTY-THIRD DEFENSE

186. Plaintiffs cannot satisfy the frequency, regularity, and proximity test as to Atlas Turner, Inc. under *Henderson v. Allied-Signal, Inc.*, 373 S.C. 179, 644 S.E.2d 724 (2007).

FOR A THIRTY-FOURTH DEFENSE

187. Atlas Turner, Inc. is not liable to Plaintiffs because Plaintiffs' or Plaintiff Melvin G. Welch's father's employer(s), union, or entities other than Atlas Turner, Inc. were learned intermediaries and/or sophisticated users of the products in question who were warned of, were otherwise aware of, or should have been aware of the alleged potential risks and dangers inherent in the product(s), were in a position to understand and inform Plaintiffs or Plaintiff Melvin G. Welch's father of the alleged risks, and had an independent duty to protect Plaintiffs or Plaintiff Melvin G. Welch's father from, and/or warn Plaintiffs or Plaintiff Melvin G. Welch's father of, any alleged potential risks or dangers, thereby relieving Atlas Turner, Inc. of any alleged duty.

FOR A THIRTY-FIFTH DEFENSE

188. To the extent the injury complained of occurred outside South Carolina, under the doctrine of *lex loci delicti* or its analogues, the law of the state or non-state jurisdiction in which the injury occurred applies.

FOR A THIRTY-SIXTH DEFENSE

189. Plaintiffs' claims are barred by the applicable statutory or special employee/employer and/or workers' compensation laws.

FOR A THIRTY-SEVENTH DEFENSE

190. Atlas Turner, Inc. had no duty to warn Plaintiffs or Plaintiff Melvin G. Welch's father because the hazards of asbestos were open and obvious and Plaintiffs and Plaintiff Melvin G. Welch's father and/or their employers knew or should have known of the hazard.

FOR A THIRTY-EIGHTH DEFENSE

191. Atlas Turner, Inc.'s alleged premises, if any are at issue, were or may have been under contract with or controlled by the United States Government or its agencies pursuant to

contract. The knowledge of the United States Government or its agencies pertaining to the possible hazards to Plaintiffs was equal to or superior to that of Atlas Turner, Inc. and, by reason thereof, Atlas Turner, Inc. is not liable to Plaintiffs under any theory of law asserted in this civil action.

FOR A THIRTY-NINTH DEFENSE

192. If any alleged asbestos-containing products manufactured or supplied by Atlas Turner, Inc. or used on premises owned or operated by Atlas Turner, Inc. were involved or in any manner alleged in any of Plaintiffs' claims, Atlas Turner, Inc. asserts that the products were abused, misused, or otherwise substantially altered or changed in their condition by others. Atlas Turner, Inc. cannot be held liable for any injury or disease caused by any such abuse, misuse, or alteration.

FOR A FORTIETH DEFENSE

193. The allegations against Atlas Turner, Inc., regarding asbestos products allegedly having a legal connection with it, must be evaluated according to the state of the medical and industrial art and the state of the law existing at the pertinent time. Atlas Turner, Inc. invokes all state-of-the-art defenses applicable to Plaintiffs' claims. Further, the state of the art, *i.e.*, the science of medicine, industrial hygiene and industrial application of asbestos-containing products, was at all material times such that Atlas Turner, Inc. neither breached any duty allegedly owed to Plaintiffs or Plaintiff Melvin G. Welch's father, nor did Atlas Turner, Inc. know, nor could it have known, that the use of any asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products presented a foreseeable risk of harm to Plaintiffs or others.

FOR A FORTY-FIRST DEFENSE

194. Plaintiffs cannot recover against Atlas Turner, Inc. under any failure to warn or inadequacy of warnings theory because, at all times pertinent to Plaintiffs' claims, Plaintiff or Plaintiff Melvin G. Welch's father possessed or should have possessed sufficient knowledge which

negated any need for any warning and/or were required to follow specific written safety procedures as established by the employer which negated the need or requirement for any such warning.

FOR A FORTY-SECOND DEFENSE

195. Atlas Turner, Inc. pleads that punitive damages may not be awarded against it because to do that would violate the complicity rule which bars the imposition of vicarious liability for punitive damages with the exception of certain circumstances not applicable here. See Restatement (Second) of Torts § 909. Any acts, statements, representations or omissions by persons or entities other than Atlas Turner, Inc. that caused damage to Plaintiffs, which Atlas Turner, Inc. does not concede, were not authorized by Atlas Turner, Inc. and were not performed or given with actual, implied, or apparent authority of Atlas Turner, Inc.

FOR A FORTY-THIRD DEFENSE

196. All of Plaintiffs' claims and issues contained therein are barred by the doctrines of collateral estoppel and *res judicata*.

FOR A FORTY-FOURTH DEFENSE

197. At all pertinent times, any asbestos-containing products supplied or used by Atlas Turner, Inc. complied with all industry standards and all reasonable standards, as well as federal and state standards and regulations governing any asbestos-containing products, and as such the products were not unsafe, unfit, or unreasonably dangerous for normal use or operation.

FOR A FORTY-FIFTH DEFENSE

198. Atlas Turner, Inc. is not liable for the acts or omissions of independent contractors.

FOR A FORTY-SIXTH DEFENSE

199. Plaintiffs' design defect claims are barred because no reasonable alternative design existed at the time Plaintiffs or Plaintiff Melvin G. Welch's father allegedly encountered any product for which Atlas Turner, Inc. may be responsible.

FOR A FORTY-SEVENTH DEFENSE

200. Atlas Turner, Inc. is not legally responsible for products that it did not manufacture, sell, supply, or otherwise place in the stream of commerce; and Atlas Turner, Inc. is not legally responsible for products manufactured, sold, or supplied by third parties, such as replacement parts or "after affixed" parts.

FOR A FORTY-EIGHTH DEFENSE

201. Plaintiffs lack capacity to sue Atlas Turner, Inc. in South Carolina under the door closing statute, S.C. Code Ann. § 15-5-150.

FOR A FORTY-NINTH DEFENSE

202. Plaintiffs' strict liability claims are barred because any products at issue were placed into the stream of commerce prior to the enactment of S.C. Code Ann. § 15-73-10, which does not apply retroactively.

FOR A FIFTIETH DEFENSE

203. If Plaintiffs were injured by any products supplied or manufactured by Atlas Turner, Inc. or any of its predecessors, or any products located on the alleged premises of Atlas Turner, Inc. or any of its predecessors, which is denied, Plaintiffs or Plaintiff Melvin G. Welch's father discovered any defect in the products and was aware of the dangers thereof but nevertheless proceeded unreasonably to make use of the same and is therefore barred from recovery by S.C. Code Ann. § 15-73-20.

FOR A FIFTY-FIRST DEFENSE

204. Plaintiffs cannot satisfy their burden to prove Plaintiff Melvin G. Welch was exposed to asbestos from products attributable to Atlas Turner, Inc. and cannot prove any such products contained asbestos.

FOR A FIFTY-SECOND DEFENSE

205. To the extent Plaintiffs prove that any products Atlas Turner, Inc. sold or installed contained asbestos, which is denied, Plaintiffs cannot prove that the asbestos therein was in a friable form or otherwise inhalable by Plaintiff Melvin G. Welch.

FOR A FIFTY-THIRD DEFENSE

206. Atlas Turner, Inc. adopts and asserts any and all applicable defenses asserted by any other defendant in this action.

JURY TRIAL DEMAND

This Defendant requests trial by jury by all issues so triable.

WHEREFORE, having fully responded to the allegations of Plaintiffs' Complaint and having asserted the above-noted other defenses, Defendant Atlas Turner, Inc. requests of the Court as follows:

1. That Plaintiffs have and recover nothing from Atlas Turner, Inc. by means of this action;
2. That Atlas Turner, Inc. recover its costs for this action, including attorneys' fees and expenses; and
3. For such other and further relief as the Court may deem just and proper.

[signature on next page]

[signature page for Answer and Defenses of Defendant Atlas Turner, Inc., on behalf of itself and Defendant Atlas Asbestos Co. to Plaintiffs' Fourth Amended Complaint 2022-CP-40-03834]

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Charleston, South Carolina

Dated: July 3, 2023

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) CIVIL ACTION NO. 2022-CP-40-03834

Melvin G. Welch and Donna B. Welch,)
))
Plaintiffs,)
))
vs.)
))
3M Company, et al.,)
))
Defendants.)
_____)



**DEFENDANT ATLAS TURNER, INC.’S MOTION FOR PROTECTIVE ORDER AND
MEMORANDUM OF LAW IN SUPPORT ON BEHALF OF ITSELF AND
DEFENDANT ATLAS ASBESTOS CO.**

Defendant Atlas Turner, Inc., sued incorrectly as successor to Atlas Asbestos Co., (“Atlas Turner”), on behalf of itself and Defendant Atlas Asbestos Co.,¹ by and through its undersigned counsel, and pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure, files this motion seeking to be relieved from designating and producing a corporate representative for deposition, and from producing any information or documents, pursuant to the Notices of 30(b)(6) Deposition of Atlas Asbestos Co. and Atlas Turner, Inc. served by Plaintiffs in this case. First, nearly all the discovery Plaintiffs seek is merits discovery, and the Court should stay discovery as to Atlas Turner until the Court rules on Defendant Atlas Turner’s Motion to Dismiss for Lack of Personal Jurisdiction. Second, in the event the Court does not grant Atlas Turner’s motion to dismiss, then the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition or produce information or documents sought by Plaintiffs’

¹ Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Third Amended Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner, Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

Notices of 30(b)(6) Deposition because Atlas Turner has no current employees, has no former employees or individuals with personal knowledge, and for the most part does not even maintain or possess the records necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notices. Third, in the event the Court does not grant Atlas Turner's motion to dismiss, then the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition, or produce information or documents sought by Plaintiffs' Notices of 30(b)(6) Deposition, because of the Quebec Business Concerns Records Act (QBCRA), which subjects Atlas Turner to criminal penalties in Quebec if it produces information and documents sought by Plaintiffs in the Notices of 30(b)(6) Deposition. In support of this motion, Atlas Turner states as follows:

BACKGROUND

On July 25, 2022, Plaintiffs filed their original Complaint. Plaintiffs subsequently amended their Complaint several times, and most recently filed their Third Amended Complaint on November 3, 2022, in which they named approximately sixty five (65) Defendants. In response, Atlas Turner has timely filed Motions to Dismiss for Lack of Personal Jurisdiction and Memoranda in Support with accompanying affidavit and has filed an Amended Memorandum with affidavits and deposition testimony (Amended Memorandum with exhibits was filed December 30, 2022).

In the Third Amended Complaint, Plaintiffs allege that Mr. Welch worked as an instrumentation specialist helper for Daniel Construction Company ("Daniel") at the Monsanto Chemical Plant [aka Chemstrand], in Greenwood, SC "in the mid-late 1960s" and was exposed to, among other things, asbestos-containing insulation products.² Plaintiffs also allege that Mr.

² See Third Amd. Complaint at ¶ 91.

Welch later worked as an “automobile mechanic at various job sites” in the “late 1970s to the mid-late 2000s” and was exposed to asbestos from “clutches, gaskets, and brakes.”³ Plaintiffs further allege Mr. Welch was exposed to asbestos-containing “friction products” such as brakes, clutches, and gaskets while working on personal vehicles and vehicles of his family and friends.⁴

On October 7, 11, 12, and 14, 2022, Mr. Welch was deposed and testified about his alleged asbestos exposure.⁵ Excerpts from the transcript dated October 7 are attached as Exhibit 1; excerpts from the transcript dated October 11 are attached as Exhibit 2; excerpts from the transcript dated October 12 are attached as Exhibit 3.

Mr. Welch testified that he believes he was exposed to asbestos when he was employed by Daniel at Chemstrand, which was the “same as the Monsanto plant,” in Greenwood, SC (“Monsanto/Chemstrand Greenwood plant”), and also later at several different garages where he worked as a brake mechanic. See Exhibit 1, at pp. 17-19.

He testified that he worked for Daniel at the Monsanto/Chemstrand Greenwood plant “in 1965, 1966.” See Exhibit 1, at p. 18. He was hired as an instrumentation installation and calibration specialist helper. See Exhibit 1, at p. 19. In describing his work for Daniel at the Monsanto/Chemstrand Greenwood plant from about “1965 to '66,” he testified that it was “new construction” and included working around insulators who were insulating overhead pipes. See Exhibit 1, at pp. 26-27, 28, 29-30. Further, he stated that during his work in “1965, '66” he believes he was around asbestos-containing insulation. See Exhibit 3, at pp. 74, 72-73. More specifically, Mr. Welch testified that Daniel was the general contractor on the job; as far as he knows, the insulators were Daniel employees; Daniel was building a new unit; the insulators were installing

³ See Third Amd. Complaint at ¶ 93.

⁴ See Third Amd. Complaint at ¶ 98.

⁵ No one appeared on behalf of Atlas Turner at the deposition.

new insulation on the pipes; and he was working under or below the insulators. See Exhibit 2, at pp. 90, 92, 96, 98. Not surprisingly, Mr. Welch did not identify any insulation products allegedly manufactured or sold by Atlas Asbestos Co. or Atlas Turner and did not mention the names “Atlas Asbestos Co.” or “Atlas Turner.” In fact, Mr. Welch did not identify the brand name or manufacturer of any insulation products at the Monsanto/Chemstrand Greenwood plant. He also agreed that he had identified all the brand names and manufacturers of asbestos-containing products that he believed he had been exposed to during his working career. See Exhibit 2, at p. 45. After working for Daniel at the Monsanto/Chemstrand Greenwood plant, he went into the Air Force in 1967 and got out in 1970. See Exhibit 1, at p. 19; see Exhibit 2, at p. 41.

In 1977, Mr. Welch went to work as a mechanic at K-Mart and became a certified brake mechanic. See Exhibit 1 at p. 30-31. Thereafter, he worked as a brake mechanic for various companies until he retired around 2000. See Exhibit 1, at pp. 21-26 and pp. 30-52. Further, he claims to have performed work for himself, family and friends on automotive brakes, gaskets, and clutches from about 1958 through the 2000s. See Exhibit 1, at pp. 52-65.

In summary, Mr. Welch testified that he allegedly worked around asbestos-containing pipe insulation products while employed by Daniel at the Monsanto/Chemstrand Greenwood plant from approximately 1965 to 1966 and that he went into the Air Force from 1967 to 1970. Thereafter, he alleges he worked as a brake mechanic with asbestos-containing brake material from approximately 1977 until he retired around 2000, and alleges that he worked with asbestos-containing automotive brakes, gaskets, and clutches from approximately 1958 through the 2000s.

Defendant Atlas Turner was and is a corporation incorporated and organized under the laws of Canada with its principal place of business in the Province of Quebec, Canada. See Affidavit of Richard Dufour dated September 7, 2022, which is attached as Exhibit 4, at ¶ 3.

Further, although Atlas Turner did manufacture asbestos-containing products, all sales of said products were made F.O.B. Montreal, Quebec, Canada and all payments were made to it in Montreal, Quebec, Canada. See Exhibit 4, at ¶ 3.

Most importantly, however, Atlas Turner has no records of sales to any company in South Carolina prior to 1968. See affidavit of Richard Dufour dated December 28, 2022, attached as Exhibit 5, at ¶ 12. Further, Atlas Turner never manufactured or sold any asbestos-containing brake material, clutch material, or gasket material. See Exhibit 5, at ¶ 13. Thus, Mr. Welch's cause of action did not arise out of or relate to the defendant's "contacts" with the forum because Atlas Turner had no contacts with the forum during the relevant time period. See *S. Plastics Co. v. S. Commerce Bank*, 310 S.C. 256, 260, 423 S. E. 2d 128, 131 (1992); *Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco County*, 137 S. Ct. 1773, 1780 (2017).

On December 6, 2022, Plaintiffs served via email Plaintiffs' Notice of 30(b)(6) Deposition of Defendant Atlas Asbestos Co. and Subpoena Duces Tecum and Plaintiffs' Notice of 30(b)(6) Deposition of Defendant Atlas Turner, Inc. and Subpoena Duces Tecum ("30(b)(6) Notices"). A copy of each 30(b)(6) Notice is attached as Exhibits 6 and 7. The 30(b)(6) Notices contain 74 topics for questioning and 23 document requests. Plaintiffs scheduled the depositions for February 2, 2023 and requested that documents be produced no later than January 3, 2023, which is 28 days from the date the 30(b)(6) Notices were served. As set forth in Exhibits A and B of the 30(b)(6) Notices, Plaintiffs seek testimony and documents nearly all of which are related to merits discovery that are wholly unrelated to the question of the Court's personal jurisdiction over Atlas Turner.

LEGAL STANDARD

Pursuant to Rule 26(c), SCRCP, “[u]pon motion by a party... and for good cause shown, the court in which the action is pending... may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense, including... (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions...; (4) that certain matters not be inquired into or that the scope of the discovery be limited to certain matters....” When the discovery process threatens to become abusive or to create a particularized harm to a litigant or third party, the Rules allow the trial judge broad latitude in limiting the scope of discovery. *Hamm v. S.C. Pub. Serv. Comm’n*, 312 S.C. 238, 241, 439 S.E. 2d 852, 854 (1994).

If a person requesting a protective order shows a particularized harm which will be caused by allowing the discovery, the opposing party has the burden of showing the information sought is “relevant and necessary” to the case. In determining whether a protective order is necessary, the trial judge is required to weigh the factors of whether the information sought is “relevant and necessary” evidence against any particularized harm the opposing party may suffer. In determining whether information is necessary, the party seeking the information must “demonstrate with specificity exactly how the lack of information will impair the presentation of the case on the merits to the point that an unjust result is a real, rather than a merely possible, threat.” The trial court must determine whether there are reasonable alternatives available to discover the information.

Hollman v. Woolfson, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009) (citing *Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 474-76, 674 S.E.2d 154, 162-63 (2009); *Hamm*, 312 S.C. at 241, 439 S.E.2d at 854) (internal citations omitted).

Because Atlas Turner’s due process rights will be violated if it is required to participate in general discovery prior to this Court’s deciding whether it has personal jurisdiction over Atlas Turner, this Court should preclude Plaintiffs from requiring Atlas Turner to produce a corporate representative and produce information and documents in response to Plaintiffs’ 30(b)(6) Notices

until it determines whether it has personal jurisdiction over Atlas Turner. Further, in the event the Court does not grant Atlas Turner's motion to dismiss, then this Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition or produce information or documents sought by the 30(b)(6) Notices because of the absence of any current or former employees or individuals with personal knowledge and the inability to educate a witness due to the lack of most relevant records and because of the QBCRA.

ARGUMENT

I. Requiring Atlas Turner to Produce a Corporate Representative, Information, and Documents Before the Court Has Determined Whether It Has Personal Jurisdiction Over Atlas Turner Would Subject Atlas Turner to Particularized Harm.

Good cause for a protective order exists when a party will suffer particularized harm if the challenged discovery takes place. *Hamm*, 312 S.C. at 241, 439 S.E. 2d at 854. First, as explained in Atlas Turner's Motion to Dismiss and Amended Memorandum in Support, there is no general jurisdiction over Atlas Turner. As for specific jurisdiction, Atlas Turner lacks contacts with South Carolina sufficient for this Court to exercise specific personal jurisdiction over it. Atlas Turner did not manufacture or sell asbestos-containing friction products such as automotive brakes, clutches, or gaskets. Thus, the only relevant jobsite is the Monsanto/Chemstrand Greenwood plant where Mr. Welch was employed by Daniel and the relevant time period is 1966 or any time prior to 1966; and Atlas Turner has no records of sales to any company in South Carolina prior to 1968. Therefore, Atlas Turner could not anticipate being haled into this Court and there are no contacts with South Carolina out of which Mr. Welch's suit can arise. Consequently, requiring Atlas Turner to participate in general discovery in this matter violates Atlas Turner's due process rights and constitutes a particularized harm to Atlas Turner. Moreover, Plaintiffs are not even entitled to jurisdictional discovery because they cannot demonstrate enough facts to support a *prima facie*

showing of personal jurisdiction. *See Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 151-153, 723 S.E. 2d 835, 839-841 (2012). Based on bare allegations in the face of specific denials, the Court should not permit even limited discovery if it will be a fishing expedition. *Id.* at 151, 723 S.E. 2d at 840.

Second, precluding Plaintiffs from moving forward with the deposition is necessary to ensure that Atlas Turner is not forced to risk waiving its jurisdictional defense. Participation in substantive discovery has been found to waive a defendant's personal jurisdiction defense. *See Maybank v. BB&T Corp.*, 416 S.C. 541, 564, 787 S.E. 2d 498, 510 (2016). To allow the deposition to proceed in this circumstance, thereby possibly forcing an involuntary "waiver" of the jurisdictional defense, is unfair and violates due process.

II. In the Event the Court Does not Grant Atlas Turner's Motion to Dismiss, Requiring Atlas Turner to Produce a Corporate Representative for Deposition, or Produce Information or Documents Sought by the 30(b)(6) Notices, Would Subject Atlas Turner to Particularized Harm Because it Lacks Individuals with Personal Knowledge and for the Most Part Does Not Maintain or Possess the Records That Would be Necessary to Educate a Witness to be Able to Testify to Matters Contained in the 30(b)(6) Notices.

As noted in Mr. Dufour's affidavit dated December 28, 2022, Atlas Turner ceased all operations in 1986; it has no current employees; it has no former employees competent to testify to the topics listed in the 30(b)(6) Notices, and for the most part does not even maintain or possess records that would be necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notices; and to the extent that relevant records do exist, their production would be prohibited by the QBCRA as interpreted by the courts in Canada and the Province of Quebec. *See Exhibit 5 at ¶¶ 10, 11, 14, 15.*

If a corporation genuinely cannot provide an appropriate designee because it does not have the information, cannot reasonably obtain it from other sources, and still lacks knowledge after

reviewing all available information, then its obligations under the Rule cease. *QBE Ins. Corp. v. Jorda Enterprises, Inc.*, 277 F.R.D. 676, 690 (S.D. Fla. 2012). Further, a party cannot produce documents it does not possess, and a party cannot create documents that do not exist. *See United States v. Remain at Home Senior Care, LLC*, Case No. 1:17-cv-01493-JMC, at *5-6 (D.S.C. Jan. 14, 2022).

Due to Atlas Turner's unique circumstances, in the event the Court denies Atlas Turner's motion to dismiss, this Court should not order Atlas Turner to produce a corporate representative for deposition, or produce information or documents sought by the 30(b)(6) Notices.

III. In The Event the Court Does Not Grant Atlas Turner's Motion to Dismiss, Then Requiring Atlas Turner to Produce a Corporate Representative for Deposition, or Produce Information or Documents Sought by the 30(b)(6) Notices, Would Subject Atlas Turner to Further Harm Because of The QBCRA.

A. The QBCRA Prohibits Atlas Turner Under Threat of Criminal Penalties from Providing Business Records, or Information from Business Records, Located in Quebec.

Atlas Turner is a Quebec corporation whose office is located in the province. Under Section 2 of the QBCRA, a copy of which is attached as Exhibit 8:

Subject to section 3, no person shall, pursuant to or under any requirement issued by any legislative, judicial, or administrative authority outside Quebec, remove or cause to be removed, or send or cause to be sent, from any place in Quebec to a place outside Quebec, any document or résumé or digest of any document relating to any concern.

The term "document" is defined as "any account, balance sheet, statement of receipts and expenditure, profit and loss statement, statement of assets and liabilities, inventory, report and any other writing or material forming part of the records or archives of a business concern." QBCRA, § 1(a). The term "concern" is defined as "any business concern in Quebec." QBCRA, § 1(b). The term "requirement" is defined as "any demand, direction, order, subpoena or summons." QBCRA § 1(c). The exception in Section 3 is limited to intra-company transfer in the normal course of

business, the sale of securities, and as “authorized by any law of Quebec or of the Parliament of Canada, in accordance with their respective jurisdictions.” QBCRA, § 3. Any person who infringes the provisions of Section 2 **shall** be guilty of contempt of court. QBCRA § 5 (emphasis added).

Quebec courts have made clear that other Quebec “concerns” would be subject to criminal penalties if they produced in U.S. litigation information or documents from their files in Quebec, and these opinions apply to Atlas Turner. In *Asbestos Corporation Limited v. Eagle Picher Industries, Inc.* (Court of Appeal, Montreal, February 24, 1984), a copy of which is attached as Exhibit 9, the Court of Appeal ruled that, if a witness was required to consult business records or archives of the employer, a Quebec “business concern,” in order to provide his testimony, such testimony would fall under the prohibition set out in Section 2 of the QBCRA. See Exhibit 9 at p. 11. Further, Judge Beauregard stated that “the filing ... of the documents ... joined to an examination of an agent of [Asbestos Corporation Limited] (“ACL”) whose testimony on these documents will be taken down by a stenographer who will translate his notes for the purposes of the foreign tribunal is equivalent, ... to the transmission out of Quebec of a ‘résumé or summary’ of the files of [ACL].” *Id.* at p. 11. Also, Judge Tyndale’s opinion, which follows the opinion of Judge Beauregard, states the QBCRA “[o]bviously ... forbids production of the documents Moreover, inspection by an attorney acting for Respondent would be useless unless he took notes, and this would lead to the export of a résumé or digest. *Id.* at pp. 1-2.

In *Pelnar v. Ins. Co. of North America* (Court of Appeal, Montreal, June 25, 1985) a copy of which is attached as Exhibit 10, the court held that the prohibition set out in Section 2 of the QBCRA is not only aimed towards business concerns, their officers or employees, but equally towards any persons who may have, or have had, in their possession documents or résumés thereof. See Exhibit 10 at pp. 5-6. Further, Quebec courts have ruled that the application of the

QBCRA did not require a preliminary request from the Attorney General. See *Lac D'Amiante Du Quebec Limited v. Procureur General De La Province De Quebec* (Court of Appeal, R.D.J., 287, 1989), a copy of which is attached as Exhibit 11, at p. 289. In addition, in *Renault v. Bell Asbestos Mines, Ltd.* (Court of Appeal, Montreal, August 13, 1980), a copy of which is attached as Exhibit 12, the court ruled that the word “document” related to much more than just accounting documents and that the QBCRA must be interpreted liberally and broadly. See Exhibit 12 at pp. 4-5.

Court opinions outside of Quebec that ignore the QBCRA do not magically transmute Atlas Turner’s predicament.⁶ Such decisions only show that Atlas Turner is beholden to two masters – stuck between facing criminal penalties in its domicile or displeasing this Court if it does not produce discovery to Plaintiffs’ satisfaction. Atlas Turner takes its discovery obligations seriously but also asks this Court to recognize and consider that Atlas Turner cannot please both masters at the same time. Application of fairness to the situation should enable Plaintiffs to obtain as much discovery as possible while not subjecting Atlas Turner to criminal penalties in its domicile. Several of this Court’s sister courts have reached this precise result.

⁶ Atlas Turner is aware of two decisions in South Carolina in which the Courts have ruled unfavorably as to the QBCRA: *Lyons v. Bell Asbestos Mines, Ltd.*, 119 F.R.D. 384 (D.S.C. 1988); and *Central Wesleyan College v. W. R. Grace & Co.*, 143 F.R.D. 628 (D.S.C. 1992). These cases are not binding on the Court. In addition, in *Asbestos Corporation Limited v. Eagle Picher Industries, Inc.* (Court of Appeal, Montreal February 24, 1984), the Quebec Court of Appeal decided that if a witness is required to consult records or archives, such testimony would fall under the prohibition of the Section 2 of the QBCRA. See Exhibit 9. Further, in *Lac D'Amiante Du Quebec Limited*, the Court held that the application of the QBCRA did not require a preliminary request from the Attorney General. See Exhibit 11, at p. 289. Therefore, the South Carolina federal courts’ interpretations in *Lyons* and *Central Wesleyan* are erroneous and should not be based on their own interpretations of the law after the highest court in Quebec already ruled on the issue.

For example, in *Jenness v. Turner and Newall Ltd.*, No. 83-61-L (D. N.H. Dec. 5, 1984), a copy of which is attached as Exhibit 13, plaintiff served interrogatories to ACL to investigate how much raw asbestos ACL sold to her employer. Exhibit 13, at p. 1. ACL admitted that it had sold asbestos to the plaintiff's employer but could not "give the detailed answers that are required to be given to plaintiff's interrogatories without reference to [ACL's] business records located in Canada." *Id.* at p. 2. As a result, the plaintiff moved for sanctions against ACL when it did not comply with the court's discovery order. The U.S. District Court for the District of New Hampshire described ACL's predicament: ACL found itself "between the Scylla of the criminal sanctions of the [QBCRA] and the Charybdis of the civil sanctions of this Court." *Id.* at p. 2. Considering ACL's quandary, the *Jenness* court found that ACL had "made a good faith effort to comply with this Court's order to answer the interrogatories" and that ACL's "fear that answering the interrogatories or giving the depositions would violate the [QBCRA] to be well founded." *Id.* at p. 3. The court ordered ACL to answer the plaintiff's interrogatories from documents and information that existed outside Quebec but that ACL did not have to answer the interrogatories from documents and information contained within Quebec. *Id.* at pp. 3-4.

Similarly in *Maryland v. Keene Corp.*, No. 1108600 (Md. Cir. Ct. July 10, 1986), a copy of which is attached as Exhibit 14, ACL sought a protective order from the plaintiff's discovery due to threat of sanctions under the QBCRA. Exhibit 14, at pp. 1-2. The *Keene* court concluded that because the QBCRA's potential penalties were "an annoyance, embarrassment and undue burden" to ACL, the court was "not convinced that it [wa]s necessary for ACL to face" the QBCRA's sanctions. *Id.* at p. 2. The court ordered that any of ACL's United States-based documents and information were discoverable but that "ACL's Canadian documents should enjoy the full protection which this Court can afford to them...." *Id.* at 3.

Further, in *Fears v. Cassair Mining, Corp.*, No. 91-98C(5) (E.D. Mo. Jan. 5, 1993), a copy of which is attached as Exhibit 15, the U. S. District Court for the Eastern District of Missouri did not find the analysis in *Lyons* persuasive because it did not deal with the Canadian courts' interpretation of the QBCRA or with the prior rulings of American courts. Rather, it adopted the *Jenness* and *Keene* courts' reasoning, concluding that "the approach taken by [those] courts is equitable and just in that it provides a broad opportunity for plaintiffs to achieve the discovery to which they are entitled without exposing [ACL] to criminal sanctions in Quebec." Exhibit 15, at p. 3. The *Fears* court allowed discovery into ACL's documents and information contained in the United States but upheld the QBCRA's prohibition on discovery into ACL's Quebec documents and information. *Id.*

B. Atlas Turner Cannot Answer Most of the Topics or Produce Most of the Documents in the 30(b)(6) Notices Without Violating the QBCRA.

Given Quebec court opinions interpreting the scope of the QBCRA, and lacking any source for information not subject to the QBCRA, Atlas Turner is unable to answer the Topics and Requests for Production contained in the 30(b)(6) Notices.

1. Topics

Virtually all of these Topics seek information relating to Atlas Turner's activities from many years ago, and Atlas Turner either has no relevant documents or is prevented from providing information from any existing documents because of the QBCRA. In fact, the company has been closed since 1986. See Exhibit 5 at ¶ 10. Also, Atlas is unaware of any individual with personal knowledge of these Topics from whom it can obtain this information; and, to the extent that relevant records do exist, their production would be prohibited by the QBCRA as interpreted by the courts in Canada and the Province of Quebec. See Exhibit 5 at ¶¶ 14 and 15. Atlas is prohibited by the QBCRA from providing any information gleaned from its company records and

other documents located in Quebec, or even acknowledging the existence of the information and documents, and therefore cannot respond under threat of criminal prosecution. Thus, notwithstanding any other objections to particular topics, Atlas is between the proverbial “rock and hard place” – subject both to South Carolina’s discovery rules, on the one hand, and to its own domestic prohibition which subjects violators to criminal penalties.

2. Requests for Production

The same explanation with respect to the QBCRA applies to Atlas Turner’s inability to produce documents in response to nearly all of Plaintiffs’ requests. Atlas Turner either does not have the vast majority of relevant documents or the existing documents would be subject to the QBCRA. As discussed above, Atlas Turner is prohibited from producing any documents from its files in Quebec by the QBCRA, or even acknowledging the existence of responsive documents. As with its ability to answer Plaintiffs’ Topics, and notwithstanding any other objections to particular topics, Atlas Turner is between the proverbial “rock and hard place” – subject both to South Carolina’s discovery rules, on the one hand, and to its own domestic prohibition which subjects violators to criminal penalties. The QBCRA precludes Atlas Turner from producing the documents requested by Plaintiffs’ from its Quebec files, or even acknowledging the existence of such documents.

C. Based on the Unique Situation Involving Atlas Turner and the QBCRA, Atlas Turner is Entitled to Deferential Treatment under the Comity Principles of International Law.

Atlas Turner is not a typical asbestos defendant. Because it faces criminal penalties if it violates the QBCRA, it should be treated with deference. Consequently, this Court should make a comity analysis using the factors set forth in *Societe Nationale Industrielle Aerospatiale v. United States District Court for Southern District of Iowa*, 482 U.S. 522, 107 S.Ct. 2542 (1987) (*Aerospatiale*) and Restatement (Third) of Foreign Relations Law of the United States, § 442

(1987) (Restatement).⁷ In *Aerospatiale*, the Supreme Court dealt with a French “Blocking Statute.” The Court directed that district courts could find their guide to a comity analysis using factors articulated in the *Restatement. Aerospatiale*, 482 U.S. at 544, footnote 28. These factors are (1) the importance to the...litigation of the documents or other information requested; (2) the degree of specificity of the request; (3) whether the information originated in the United States; (4) the availability of alternative means of securing the information; and (5) the extent to which noncompliance with the request would undermine important interests of the United States, or compliance with the request would undermine important interests of the state where the information is located.

A comity analysis using the factors set forth in *Aerospatiale* supports deferential consideration for Atlas Turner. As for the second factor – the degree of specificity – many of plaintiffs’ requests are overly broad. For example, Topic 65 asks: beginning in the year that Defendant first manufactured, marketed, produced...sold...any asbestos-containing products and continuing through the present day, the identity [sic] each person who has held the position of corporate medical director, corporate safety director, and corporate industrial hygienist, however characterized. For each person identified, the person’s current or last known address and whether the person is currently alive or dead, if known. Also Topic 69 is “All information relating to the Defendant’s knowledge of asbestos.” As for the third factor – the origination of the information – this factor weighs heavily in favor of Atlas Turner since the information sought did not originate

⁷ Atlas Turner is aware of at least one decision in South Carolina in which the court referenced *Aerospatiale* in relation to the QBCRA: *Lyons v. Bell Asbestos Mines, Ltd.*, 119 F.R.D. 384 (D.S.C. 1988). In addition, the court in *Central Wesleyan College v. W. R. Grace & Co.*, 143 F.R.D. 628 (D.S.C. 1992) ruled unfavorably as to the QBCRA. See footnote 6 in this Memorandum. These two cases are not binding on this Court. This Court should adopt the reasoning set forth in *Fears, Jenness and Keene*.

in the United States. As for the fourth factor – the availability of alternative means for securing the information – this factor weighs in favor of Atlas Turner as will be discussed below.

D. Plaintiffs Have Alternative Sources for Information and Documents They Seek From Atlas Turner.

Plaintiffs have a number of alternative U.S. sources for many of the documents and much of the information contained therein which they seek here. Atlas Turner has no business records or other responsive documents in the United States in its possession, custody, or control. However, plaintiffs’ counsel, who are sophisticated and a premier asbestos plaintiffs’ law firm, undoubtedly have access to purported Atlas documents collected by other asbestos plaintiff’s counsel around the country in various lawsuits (“Repositories”). Plaintiffs’ counsel could also obtain various depositions that were taken many years ago. Further, plaintiffs can obtain, or have obtained in the past, information from co-defendants’ document productions, including co-defendants Daniel International and Pharmacia (Monsanto). If plaintiffs’ counsel have any relevant documents, Atlas Turner requests that they produce these documents. Plaintiffs should be able to obtain information they seek without exposing Atlas Turner to potential criminal penalties. Discovery should be the retrieval of available information from the least burdensome source.⁸

IV. Plaintiffs Cannot Demonstrate that Atlas Turner’s Requested Protective Order Will Impair Their Case.

After the party seeking the protective order demonstrates good cause by showing a particularized harm from the discovery, the party seeking the discovery must come forward and show that the information sought is “both necessary and relevant” to the case. *Hamm*, 312 S.C. 238, 242, 439 S.E.2d 854. Because the Court lacks personal jurisdiction over Atlas Turner,

⁸ Atlas Turner reserves the right to serve additional objections to the 30(b)(6) Notices should the Court order that a deposition may go forward.

Plaintiffs can make no such showing. As Atlas Turner shows in its Motion to Dismiss and Amended Memorandum in Support, this action should be dismissed pursuant to South Carolina law and the Due Process Clause of the United States Constitution. Further, Plaintiffs have alternative sources for information and documents they seek from Atlas Turner. Plaintiffs have not demonstrated a basis for jurisdictional discovery, much less a need for merits discovery in this action, and cannot show that the discovery they seek through the 30(b)(6) Notices is necessary and relevant to the case, nor that it is narrowly tailored to the allegations in the Third Amended Complaint.

CONCLUSION

For the reasons stated above, Atlas Turner respectfully requests that this Court issue a protective order precluding a deposition of Atlas Turner's corporate representative and precluding the production of documents pursuant to Plaintiffs' 30(b)(6) Notices pending the resolution of Atlas Turner's personal jurisdictional challenge. Further, in the event the Court does not grant Atlas Turner's Motion to Dismiss, the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition, or produce information or documents sought by Plaintiffs' 30(b)(6) Notices, because Atlas Turner has no current employees, has no former employees or individuals with personal knowledge, and for the most part does not even maintain or possess the records necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notices. Finally, in the event this Court does not grant Atlas Turner's motion to dismiss, then the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition, or produce information or documents sought

by the 30(b)(6) Notices, because of the QBCRA, which subjects Atlas Turner to criminal penalties in Quebec if it produces information or documents sought by Plaintiffs' 30(b)(6) Notices.

By the signature below, counsel for Atlas Turner affirms that he has communicated orally and in writing with opposing counsel and has attempted in good faith to resolve the matters contained in the motion.

NELSON MULLINS RILEY & SCARBOROUGH LLP

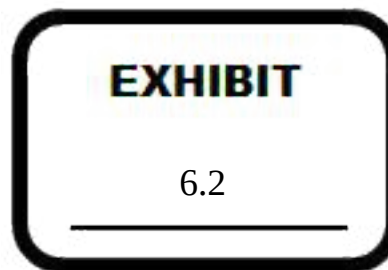
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Columbia, South Carolina

January 3, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	CIVIL ACTION NO. 2022-CP-40-03834
Melvin G. Welch and Donna B. Welch,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
3M Company, et al.,	)	
	)	
Defendants.	)	



**DEFENDANT ATLAS TURNER, INC.’S MOTION FOR PROTECTIVE ORDER AND
MEMORANDUM OF LAW IN SUPPORT ON BEHALF OF ITSELF AND
DEFENDANT ATLAS ASBESTOS CO.**

Defendant Atlas Turner, Inc., sued incorrectly as successor to Atlas Asbestos Co., (“Atlas Turner”), on behalf of itself and Defendant Atlas Asbestos Co.,¹ by and through its undersigned counsel, and pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure, files this Motion and Memorandum seeking to be relieved from designating and producing a corporate representative for deposition, and from producing any information or documents, pursuant to the First Amended Notice of 30(b)(6) Deposition of Atlas Asbestos Co. served by Plaintiffs in this case.² First, nearly all the discovery Plaintiffs seek is merits discovery, and the Court should stay

¹ Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Third Amended Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner, Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

² On July 25, 2022, Plaintiffs filed their original Complaint, and alleged Mr. Welch developed mesothelioma as the result of exposure to asbestos dust and fibers. *See* Complaint at ¶1. Atlas Turner, on behalf of itself and Defendant Atlas Asbestos Co., timely filed a Motion to Dismiss for Lack of Personal Jurisdiction with a Memorandum in Support and an affidavit from Richard Dufour dated September 7, 2022. Plaintiffs subsequently amended their Complaint several times, and most recently filed their Third Amended Complaint on November 3, 2022. In response, Atlas Turner timely filed Motions to Dismiss for Lack of Personal Jurisdiction and Memoranda in Support with the aforementioned affidavit of Mr. Dufour. On December 6, 2022, Plaintiffs served via email Plaintiffs’ Notice of 30(b)(6) Deposition of Defendant Atlas Asbestos Co. and Subpoena

discovery as to Atlas Turner until the Court rules on Defendant Atlas Turner's Motion to Dismiss for Lack of Personal Jurisdiction. Second, in the event the Court does not grant Atlas Turner's motion to dismiss, then the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition or produce information or documents sought by Plaintiffs' Notice of 30(b)(6) Deposition because Atlas Turner has no current employees, has no former employees or individuals with personal knowledge, and for the most part does not even maintain or possess the records necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notice. Third, in the event the Court does not grant Atlas Turner's

Duces Tecum and Plaintiffs' Notice of 30(b)(6) Deposition of Defendant Atlas Turner, Inc. and Subpoena Duces Tecum ("30(b)(6) Notices").

The 30(b)(6) Notices contained 74 topics and 23 document requests. Plaintiffs scheduled the depositions for February 2, 2023, and requested that the documents be produced no later than January 3, 2023, which was 28 days from the date the 30(b)(6) Notices were served. On December 30, 2022 Atlas Turner filed an Amended Memorandum in Support of the Motion to Dismiss. On January 3, 2023, Atlas Turner filed a Motion for Protective Order and Memorandum and Law in Support with affidavits and other exhibits on behalf of itself and Defendant Atlas Asbestos Co. Further, in an email to the Court and counsel of record dated January 5, 2023, counsel for Atlas Turner requested that the Court hear at the January 27, 2023 motions hearing or as soon as possible thereafter the following motions: (1) Motion to Dismiss Plaintiffs' Third Amended Complaint for Lack of Personal Jurisdiction of Defendant Atlas Turner, Inc. on Behalf of Itself and Defendant Atlas Asbestos Co. (filed November 17, 2022), and the Amended Memorandum with exhibits (filed December 30, 2022) and (2) Defendant Atlas Turner, Inc.'s Motion for Protective Order and Memorandum in Support on Behalf of Itself and Defendant Atlas Asbestos Co. (filed January 3, 2023). A copy of this email is attached as Exhibit 1. Due to a schedule conflict, Plaintiffs' counsel requested that the motions be heard on another date and requested two weeks to respond. *See* Exhibit 1. Counsel for Atlas Turner responded and requested that the Court schedule a hearing at the Court's convenience on a date after January 27, 2023, and requested that Atlas Turner, on behalf of itself and Defendant Atlas Asbestos Co., be given a week after Plaintiffs' responses in which to file replies.

On February 1, 2023, counsel for Plaintiffs cancelled the depositions scheduled for February 2, 2023. On March 16, 2023, Plaintiffs served Plaintiffs' First Amended Notice of 30(b)(6) Deposition of Defendant Atlas Asbestos Co. and Subpoena Duces Tecum ("the 30(b)(6) Notice"). On March 20, 2023 Defendant Atlas Turner, Inc., on behalf of itself and Atlas Asbestos Co., filed a Motion for Summary Judgment and filed a Memorandum in Support with affidavits and other exhibits.

motion to dismiss, then the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition, or produce information or documents sought by Plaintiffs' Notice of 30(b)(6) Deposition, because of the Quebec Business Concerns Records Act (QBCRA), which subjects Atlas Turner to criminal penalties in Quebec if it produces information and documents sought by Plaintiffs in the Notice of 30(b)(6) Deposition. In support of this motion, Atlas Turner states as follows:

BACKGROUND

In the Third Amended Complaint, Plaintiffs allege that Mr. Welch worked as an instrumentation specialist helper for Daniel Construction Company ("Daniel") at the Monsanto Chemical Plant [aka Chemstrand], in Greenwood, SC "in the mid-late 1960s" and was exposed to, among other things, asbestos-containing insulation products.³ Plaintiffs also allege that Mr. Welch later worked as an "automobile mechanic at various job sites" in the "late 1970s to the mid-late 2000s" and was exposed to asbestos from "clutches, gaskets, and brakes."⁴ Plaintiffs further allege Mr. Welch was exposed to asbestos-containing "friction products" such as brakes, clutches, and gaskets while working on personal vehicles and vehicles of his family and friends.⁵

On October 7, 11, 12, and 14, 2022, Mr. Welch was deposed and testified about his alleged asbestos exposure.⁶ Excerpts from the "trial" transcript dated October 7 are attached as Exhibit 2; excerpts from the "discovery" transcript dated October 11 are attached as Exhibit 3; excerpts from the "discovery" transcript dated October 12 are attached as Exhibit 4.

³ See Third Amd. Complaint at ¶ 91.

⁴ See Third Amd. Complaint at ¶ 93.

⁵ See Third Amd. Complaint at ¶ 98.

⁶ No one appeared on behalf of Atlas Turner at the deposition.

Mr. Welch testified that he believes he was exposed to asbestos when he was employed by Daniel at Chemstrand, which was the “same as the Monsanto plant,” in Greenwood, SC (“Monsanto/Chemstrand Greenwood plant”), and also later at several different garages where he worked as a brake mechanic. *See* Exhibit 2, at pp. 17-19.

He testified that he worked for Daniel at the Monsanto/Chemstrand Greenwood plant “in 1965, 1966.” *See* Exhibit 2, at p. 18. He was hired as an instrumentation installation and calibration specialist helper. *See* Exhibit 2, at p. 19. In describing his work for Daniel at the Monsanto/Chemstrand Greenwood plant from about “1965 to '66,” he testified that it was “new construction” and included working around insulators who were insulating overhead pipes. *See* Exhibit 2, at pp. 26-27, 28, 29-30. Further, he stated that during his work in “1965, '66” he believes he was around asbestos-containing insulation. *See* Exhibit 4, at pp. 74, 72-73. More specifically, Mr. Welch testified that Daniel was the general contractor on the job; as far as he knows, the insulators were Daniel employees; Daniel was building a new unit; the insulators were installing new insulation on the pipes; and he was working under or below the insulators. *See* Exhibit 3, at pp. 90, 92, 96, 98. Mr. Welch did not identify any insulation products allegedly manufactured or sold by Atlas Asbestos Co. or Atlas Turner and did not mention the names “Atlas Asbestos Co.” or “Atlas Turner.” In fact, Mr. Welch did not identify the brand name or manufacturer of any insulation products at the Monsanto/Chemstrand Greenwood plant. He also agreed that he had identified all the brand names and manufacturers of asbestos-containing products that he believed he had been exposed to during his working career. *See* Exhibit 3, at p. 45. After working for Daniel at the Monsanto/Chemstrand Greenwood plant, he went into the Air Force in 1967 and got out in 1970. *See* Exhibit 2, at p. 19; *see* Exhibit 3, at p. 41.

In 1977, Mr. Welch went to work as a mechanic at K-Mart and became a certified brake mechanic. *See* Exhibit 2 at p. 30-31. Thereafter, he worked as a brake mechanic for various companies until he retired around 2000. *See* Exhibit 2, at pp. 21-26 and pp. 30-52. Further, he claims to have performed work for himself, family and friends on automotive brakes, gaskets, and clutches from about 1958 through the 2000s. *See* Exhibit 2, at pp. 52-65.

In summary, Mr. Welch testified that he allegedly worked around asbestos-containing pipe insulation products while employed by Daniel at the Monsanto/Chemstrand Greenwood plant from approximately 1965 to 1966 and that he went into the Air Force from 1967 to 1970.⁷ Thereafter, he alleges he worked as a brake mechanic with asbestos-containing brake material from approximately 1977 until he retired around 2000, and alleges that he worked with asbestos-containing automotive brakes, gaskets, and clutches from approximately 1958 through the 2000s.

Defendant Atlas Turner was and is a corporation incorporated and organized under the laws of Canada with its principal place of business in the Province of Quebec, Canada. *See* Affidavit of Richard Dufour dated September 7, 2022, which is attached as Exhibit 6, at ¶ 3. Further, although Atlas Turner did manufacture asbestos-containing products, all sales of said products were made F.O.B. Montreal, Quebec, Canada and all payments were made to it in Montreal, Quebec, Canada. *See* Exhibit 6, at ¶ 3.

⁷ Mr. Welch's Social Security Itemized Statement of Earnings was received by defense counsel on March 29, 2023; it and the transmittal email are attached as Exhibit 5. There are some discrepancies between the dates of Mr. Welch's employment as testified by Mr. Welch compared to the Social Security document. Specifically, as to the dates of Mr. Welch's employment by Daniel, the records state that his employment by Daniel was from the last quarter of 1966 through the second quarter of 1967, not from 1965 to 1966. *See* Exhibit 5 at page 1. The discrepancy makes no difference to the position of Atlas Turner because Mr. Welch's dates of employment with Daniel ended before 1968.

Most importantly, however, Atlas Turner has no records of sales to any company in South Carolina prior to 1968. *See* affidavit of Richard Dufour dated December 28, 2022, attached as Exhibit 7, at ¶ 12. Further, Atlas Turner never manufactured or sold any asbestos-containing brake material, clutch material, or gasket material. *See* Exhibit 7, at ¶ 13. Thus, Mr. Welch’s cause of action did not arise out of or relate to the defendant’s “contacts” with the forum because Atlas Turner had no contacts with the forum during the relevant time period. *See S. Plastics Co. v. S. Commerce Bank*, 310 S.C. 256, 260, 423 S. E. 2d 128, 131 (1992); *Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco County*, 137 S. Ct. 1773, 1780 (2017).

As explained in footnote 2, on March 16, 2023, Plaintiffs served via email Plaintiffs’ First Amended Notice of 30(b)(6) Deposition of Defendant Atlas Asbestos Co. and Subpoena Duces Tecum (“30(b)(6) Notice”). A copy of the 30(b)(6) Notice is attached as Exhibit 8. The 30(b)(6) Notice contains 75 topics and 25 document requests. Plaintiffs scheduled the deposition for April 17, 2023, and requested that documents be produced no later than April 3, 2023, which is 15 days from the date the 30(b)(6) Notice was served. As set forth in Exhibits A and B of the 30(b)(6) Notice, Plaintiffs seek testimony and documents nearly all of which are related to merits discovery that are wholly unrelated to the question of the Court’s personal jurisdiction over Atlas Turner.

LEGAL STANDARD

Pursuant to Rule 26(c), SCRCP, “[u]pon motion by a party... and for good cause shown, the court in which the action is pending... may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense, including... (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions...; (4) that certain matters not be inquired into or that the scope of the discovery be limited to certain matters....” When the discovery process threatens to become

abusive or to create a particularized harm to a litigant or third party, the Rules allow the trial judge broad latitude in limiting the scope of discovery. *Hamm v. S.C. Pub. Serv. Comm'n*, 312 S.C. 238, 241, 439 S.E. 2d 852, 854 (1994).

If a person requesting a protective order shows a particularized harm which will be caused by allowing the discovery, the opposing party has the burden of showing the information sought is “relevant and necessary” to the case. In determining whether a protective order is necessary, the trial judge is required to weigh the factors of whether the information sought is “relevant and necessary” evidence against any particularized harm the opposing party may suffer. In determining whether information is necessary, the party seeking the information must “demonstrate with specificity exactly how the lack of information will impair the presentation of the case on the merits to the point that an unjust result is a real, rather than a merely possible, threat.” The trial court must determine whether there are reasonable alternatives available to discover the information.

Hollman v. Woolfson, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009) (citing *Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 474-76, 674 S.E.2d 154, 162-63 (2009); *Hamm*, 312 S.C. at 241, 439 S.E.2d at 854) (internal citations omitted).

Because Atlas Turner’s due process rights will be violated if it is required to participate in general discovery prior to this Court’s deciding whether it has personal jurisdiction over Atlas Turner, this Court should preclude Plaintiffs from requiring Atlas Turner to produce a corporate representative and produce information and documents in response to Plaintiffs’ 30(b)(6) Notice until it determines whether it has personal jurisdiction over Atlas Turner. Further, in the event the Court does not grant Atlas Turner’s motion to dismiss, then this Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition or produce information or documents sought by the 30(b)(6) Notice because of the absence of any current or former employees or individuals with personal knowledge and the inability to educate a witness due to the lack of most relevant records and because of the QBCRA.

ARGUMENT

I. Requiring Atlas Turner to Produce a Corporate Representative, Information, and Documents Before the Court Has Determined Whether It Has Personal Jurisdiction Over Atlas Turner Would Subject Atlas Turner to Particularized Harm.

Good cause for a protective order exists when a party will suffer particularized harm if the challenged discovery takes place. *Hamm*, 312 S.C. at 241, 439 S.E. 2d at 854. First, as explained in Atlas Turner's Motion to Dismiss and Amended Memorandum in Support, there is no general jurisdiction over Atlas Turner. As for specific jurisdiction, Atlas Turner lacks contacts with South Carolina sufficient for this Court to exercise specific personal jurisdiction over it. Atlas Turner did not manufacture or sell asbestos-containing friction products such as automotive brakes, clutches, or gaskets. Thus, the only relevant jobsite is the Monsanto/Chemstrand Greenwood plant where Mr. Welch was employed by Daniel, and the relevant time period, based on the Social Security Itemized Statement of Earnings, is from the last quarter of 1966 through the second quarter of 1967; and Atlas Turner has no records of sales to any company in South Carolina prior to 1968. Therefore, Atlas Turner could not anticipate being haled into this Court and there are no contacts with South Carolina out of which Mr. Welch's suit can arise. Consequently, requiring Atlas Turner to participate in general discovery in this matter violates Atlas Turner's due process rights and constitutes a particularized harm to Atlas Turner. Moreover, Plaintiffs are not even entitled to jurisdictional discovery because they cannot demonstrate enough facts to support a *prima facie* showing of personal jurisdiction. *See Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 151-153, 723 S.E. 2d 835, 839-841 (2012). Based on bare allegations in the face of specific denials, the Court should not permit even limited discovery if it will be a fishing expedition. *Id.* at 151, 723 S.E. 2d at 840.

Second, precluding Plaintiffs from moving forward with the deposition is necessary to ensure that Atlas Turner is not forced to risk waiving its jurisdictional defense. Participation in substantive discovery has been found to waive a defendant's personal jurisdiction defense. *See Maybank v. BB&T Corp.*, 416 S.C. 541, 564, 787 S.E. 2d 498, 510 (2016). To allow the deposition to proceed in this circumstance, thereby possibly forcing an involuntary "waiver" of the jurisdictional defense, is unfair and violates due process.

II. In the Event the Court Does not Grant Atlas Turner's Motion to Dismiss, Requiring Atlas Turner to Produce a Corporate Representative for Deposition, or Produce Information or Documents Sought by the 30(b)(6) Notice, Would Subject Atlas Turner to Particularized Harm Because it Lacks Individuals with Personal Knowledge and for the Most Part Does Not Maintain or Possess the Records That Would be Necessary to Educate a Witness to be Able to Testify to Matters Contained in the 30(b)(6) Notice.

As noted in Mr. Dufour's affidavit dated December 28, 2022, Atlas Turner ceased all operations in 1986; it has no current employees; it has no former employees competent to testify to the topics listed in the 30(b)(6) Notice, and for the most part does not even maintain or possess records that would be necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notice; and to the extent that relevant records do exist, their production would be prohibited by the QBCRA as interpreted by the courts in Canada and the Province of Quebec. *See Exhibit 7 at ¶¶ 10, 11, 14, 15.*

If a corporation genuinely cannot provide an appropriate designee because it does not have the information, cannot reasonably obtain it from other sources, and still lacks knowledge after reviewing all available information, then its obligations under the Rule cease. *QBE Ins. Corp. v. Jorda Enterprises, Inc.*, 277 F.R.D. 676, 690 (S.D. Fla. 2012). Further, a party cannot produce documents it does not possess, and a party cannot create documents that do not exist. *See United*

States v. Remain at Home Senior Care, LLC, Case No. 1:17-cv-01493-JMC, at *5-6 (D.S.C. Jan. 14, 2022).

Due to Atlas Turner's unique circumstances, in the event the Court denies Atlas Turner's motion to dismiss, this Court should not order Atlas Turner to produce a corporate representative for deposition, or produce information or documents sought by the 30(b)(6) Notice.

III. In The Event the Court Does Not Grant Atlas Turner's Motion to Dismiss, Then Requiring Atlas Turner to Produce a Corporate Representative for Deposition, or Produce Information or Documents Sought by the 30(b)(6) Notice, Would Subject Atlas Turner to Further Harm Because of The QBCRA.

A. The QBCRA Prohibits Atlas Turner Under Threat of Criminal Penalties from Providing Business Records, or Information from Business Records, Located in Quebec.

Atlas Turner is a Quebec corporation whose office is located in the province. Under Section 2 of the QBCRA, a copy of which is attached as Exhibit 9:

Subject to section 3, no person shall, pursuant to or under any requirement issued by any legislative, judicial, or administrative authority outside Quebec, remove or cause to be removed, or send or cause to be sent, from any place in Quebec to a place outside Quebec, any document or résumé or digest of any document relating to any concern.

The term "document" is defined as "any account, balance sheet, statement of receipts and expenditure, profit and loss statement, statement of assets and liabilities, inventory, report and any other writing or material forming part of the records or archives of a business concern." QBCRA, § 1(a). The term "concern" is defined as "any business concern in Quebec." QBCRA, § 1(b). The term "requirement" is defined as "any demand, direction, order, subpoena or summons." QBCRA § 1(c). The exception in Section 3 is limited to intra-company transfer in the normal course of business, the sale of securities, and as "authorized by any law of Quebec or of the Parliament of Canada, in accordance with their respective jurisdictions." QBCRA, § 3. Any person who infringes the provisions of Section 2 **shall** be guilty of contempt of court. QBCRA § 5 (emphasis added).

Quebec courts have made clear that other Quebec “concerns” would be subject to criminal penalties if they produced in U.S. litigation information or documents from their files in Quebec, and these opinions apply to Atlas Turner. In *Asbestos Corporation Limited v. Eagle Picher Industries, Inc.* (Court of Appeal, Montreal, February 24, 1984), a copy of which is attached as Exhibit 10, the Court of Appeal ruled that, if a witness was required to consult business records or archives of the employer, a Quebec “business concern,” in order to provide his testimony, such testimony would fall under the prohibition set out in Section 2 of the QBCRA. *See* Exhibit 10 at p. 11. Further, Judge Beauregard stated that “the filing ... of the documents ... joined to an examination of an agent of [Asbestos Corporation Limited] (“ACL”) whose testimony on these documents will be taken down by a stenographer who will translate his notes for the purposes of the foreign tribunal is equivalent, ... to the transmission out of Quebec of a ‘résumé or summary’ of the files of [ACL].” *Id.* at p. 11. Also, Judge Tyndale’s opinion, which follows the opinion of Judge Beauregard, states the QBCRA “[o]bviously ... forbids production of the documents Moreover, inspection by an attorney acting for Respondent would be useless unless he took notes, and this would lead to the export of a résumé or digest. *Id.* at pp. 1-2.

In *Pelnar v. Ins. Co. of North America* (Court of Appeal, Montreal, June 25, 1985) a copy of which is attached as Exhibit 11, the court held that the prohibition set out in Section 2 of the QBCRA is not only aimed towards business concerns, their officers or employees, but equally towards any persons who may have, or have had, in their possession documents or résumés thereof. *See* Exhibit 11 at pp. 5-6. Further, Quebec courts have ruled that the application of the QBCRA did not require a preliminary request from the Attorney General. *See Lac D’Amiante Du Quebec Limited v. Procureur General De La Province De Quebec* (Court of Appeal, R.D.J., 287, 1989), a copy of which is attached as Exhibit 12, at p. 289. In addition, in *Renault v. Bell Asbestos*

Mines, Ltd. (Court of Appeal, Montreal, August 13, 1980), a copy of which is attached as Exhibit 13, the court ruled that the word “document” related to much more than just accounting documents and that the QBCRA must be interpreted liberally and broadly. *See* Exhibit 13 at pp. 4-5.

Court opinions outside of Quebec that ignore the QBCRA do not magically transmute Atlas Turner’s predicament.⁸ Such decisions only show that Atlas Turner is beholden to two masters – stuck between facing criminal penalties in its domicile or displeasing this Court if it does not produce discovery to Plaintiffs’ satisfaction. Atlas Turner takes its discovery obligations seriously but also asks this Court to recognize and consider that Atlas Turner cannot please both masters at the same time. Application of fairness to the situation should enable Plaintiffs to obtain as much discovery as possible while not subjecting Atlas Turner to criminal penalties in its domicile. Several of this Court’s sister courts have reached this precise result.

For example, in *Jenness v. Turner and Newall Ltd.*, No. 83-61-L (D. N.H. Dec. 5, 1984), a copy of which is attached as Exhibit 14, plaintiff served interrogatories to ACL to investigate how much raw asbestos ACL sold to her employer. Exhibit 14, at p. 1. ACL admitted that it had sold asbestos to the plaintiff’s employer but could not “give the detailed answers that are required

⁸ Atlas Turner is aware of two decisions in South Carolina in which the Courts have ruled unfavorably as to the QBCRA: *Lyons v. Bell Asbestos Mines, Ltd.*, 119 F.R.D. 384 (D.S.C. 1988); and *Central Wesleyan College v. W. R. Grace & Co.*, 143 F.R.D. 628 (D.S.C. 1992). These cases are not binding on the Court. In addition, in *Asbestos Corporation Limited v. Eagle Picher Industries, Inc.* (Court of Appeal, Montreal February 24, 1984), the Quebec Court of Appeal decided that if a witness is required to consult records or archives, such testimony would fall under the prohibition of the Section 2 of the QBCRA. *See* Exhibit 10. Further, in *Lac D’Amiante Du Quebec Limited*, the Court held that the application of the QBCRA did not require a preliminary request from the Attorney General. *See* Exhibit 12, at p. 289. Therefore, the South Carolina federal courts’ interpretations in *Lyons* and *Central Wesleyan* are erroneous and should not be based on their own interpretations of the law after the highest court in Quebec already ruled on the issue.

to be given to plaintiff's interrogatories without reference to [ACL's] business records located in Canada." *Id.* at p. 2. As a result, the plaintiff moved for sanctions against ACL when it did not comply with the court's discovery order. The U.S. District Court for the District of New Hampshire described ACL's predicament: ACL found itself "between the Scylla of the criminal sanctions of the [QBCRA] and the Charybdis of the civil sanctions of this Court." *Id.* at p. 2. Considering ACL's quandary, the *Jenness* court found that ACL had "made a good faith effort to comply with this Court's order to answer the interrogatories" and that ACL's "fear that answering the interrogatories or giving the depositions would violate the [QBCRA] to be well founded." *Id.* at p. 3. The court ordered ACL to answer the plaintiff's interrogatories from documents and information that existed outside Quebec but that ACL did not have to answer the interrogatories from documents and information contained within Quebec. *Id.* at pp. 3-4.

Similarly in *Maryland v. Keene Corp.*, No. 1108600 (Md. Cir. Ct. July 10, 1986), a copy of which is attached as Exhibit 15, ACL sought a protective order from the plaintiff's discovery due to threat of sanctions under the QBCRA. Exhibit 15, at pp. 1-2. The *Keene* court concluded that because the QBCRA's potential penalties were "an annoyance, embarrassment and undue burden" to ACL, the court was "not convinced that it [wa]s necessary for ACL to face" the QBCRA's sanctions. *Id.* at p. 2. The court ordered that any of ACL's United States-based documents and information were discoverable but that "ACL's Canadian documents should enjoy the full protection which this Court can afford to them...." *Id.* at 3.

Further, in *Fears v. Cassair Mining, Corp.*, No. 91-98C(5) (E.D. Mo. Jan. 5, 1993), a copy of which is attached as Exhibit 16, the U. S. District Court for the Eastern District of Missouri did not find the analysis in *Lyons* persuasive because it did not deal with the Canadian courts' interpretation of the QBCRA or with the prior rulings of American courts. Rather, it adopted the

Jenness and *Keene* courts’ reasoning, concluding that “the approach taken by [those] courts is equitable and just in that it provides a broad opportunity for plaintiffs to achieve the discovery to which they are entitled without exposing [ACL] to criminal sanctions in Quebec.” Exhibit 16, at p. 3. The *Fears* court allowed discovery into ACL’s documents and information contained in the United States but upheld the QBCRA’s prohibition on discovery into ACL’s Quebec documents and information. *Id.*

B. Atlas Turner Cannot Answer Most of the Topics or Produce Most of the Documents in the 30(b)(6) Notice Without Violating the QBCRA.

Given Quebec court opinions interpreting the scope of the QBCRA, and lacking any source for information not subject to the QBCRA, Atlas Turner is unable to answer the Topics and Requests for Production contained in the 30(b)(6) Notice.

1. Topics

Virtually all of these Topics seek information relating to Atlas Turner’s activities from many years ago, and Atlas Turner either has no relevant documents or is prevented from providing information from any existing documents because of the QBCRA. In fact, the company has been closed since 1986. *See* Exhibit 7 at ¶ 10. Also, Atlas is unaware of any individual with personal knowledge of these Topics from whom it can obtain this information; and, to the extent that relevant records do exist, their production would be prohibited by the QBCRA as interpreted by the courts in Canada and the Province of Quebec. *See* Exhibit 7 at ¶¶ 14 and 15. Atlas is prohibited by the QBCRA from providing any information gleaned from its company records and other documents located in Quebec, or even acknowledging the existence of the information and documents, and therefore cannot respond under threat of criminal prosecution. Thus, notwithstanding any other objections to particular topics, Atlas is between the proverbial “rock

and hard place” – subject both to South Carolina’s discovery rules, on the one hand, and to its own domestic prohibition which subjects violators to criminal penalties.

2. Requests for Production

The same explanation with respect to the QBCRA applies to Atlas Turner’s inability to produce documents in response to nearly all of Plaintiffs’ requests. Atlas Turner either does not have the vast majority of relevant documents or the existing documents would be subject to the QBCRA. As discussed above, Atlas Turner is prohibited from producing any documents from its files in Quebec by the QBCRA, or even acknowledging the existence of responsive documents. As with its ability to answer Plaintiffs’ Topics, and notwithstanding any other objections to particular topics, Atlas Turner is between the proverbial “rock and hard place” – subject both to South Carolina’s discovery rules, on the one hand, and to its own domestic prohibition which subjects violators to criminal penalties. The QBCRA precludes Atlas Turner from producing the documents requested by Plaintiffs’ from its Quebec files, or even acknowledging the existence of such documents.

C. **Based on the Unique Situation Involving Atlas Turner and the QBCRA, Atlas Turner is Entitled to Deferential Treatment under the Comity Principles of International Law.**

Atlas Turner is not a typical asbestos defendant. Because it faces criminal penalties if it violates the QBCRA, it should be treated with deference. Consequently, this Court should make a comity analysis using the factors set forth in *Societe Nationale Industrielle Aerospatiale v. United States District Court for Southern District of Iowa*, 482 U.S. 522, 107 S.Ct. 2542 (1987) (*Aerospatiale*) and Restatement (Third) of Foreign Relations Law of the United States, § 442 (1987) (Restatement).⁹ In *Aerospatiale*, the Supreme Court dealt with a French “Blocking

⁹ Atlas Turner is aware of at least one decision in South Carolina in which the court referenced *Aerospatiale* in relation to the QBCRA: *Lyons v. Bell Asbestos Mines, Ltd.*, 119 F.R.D. 384

Statute.” The Court directed that district courts could find their guide to a comity analysis using factors articulated in the *Restatement. Aerospatiale*, 482 U.S. at 544, footnote 28. These factors are (1) the importance to the...litigation of the documents or other information requested; (2) the degree of specificity of the request; (3) whether the information originated in the United States; (4) the availability of alternative means of securing the information; and (5) the extent to which noncompliance with the request would undermine important interests of the United States, or compliance with the request would undermine important interests of the state where the information is located.

A comity analysis using the factors set forth in *Aerospatiale* supports deferential consideration for Atlas Turner. As for the second factor – the degree of specificity – many of plaintiffs’ requests are overly broad. For example, Topic 66 asks: beginning in the year that Defendant first manufactured, marketed, produced...sold...any asbestos-containing products and continuing through the present day, the identity [sic] each person who has held the position of corporate medical director, corporate safety director, and corporate industrial hygienist, however characterized. For each person identified, the person’s current or last known address and whether the person is currently alive or dead, if known. Also Topic 70 is “All information relating to the Defendant’s knowledge of asbestos.” As for the third factor – the origination of the information – this factor weighs heavily in favor of Atlas Turner since the information sought did not originate in the United States. As for the fourth factor – the availability of alternative means for securing the information – this factor weighs in favor of Atlas Turner as will be discussed below.

(D.S.C. 1988). In addition, the court in *Central Wesleyan College v. W. R. Grace & Co.*, 143 F.R.D. 628 (D.S.C. 1992) ruled unfavorably as to the QBCRA. See footnote 8 in this Memorandum. These two cases are not binding on this Court. This Court should adopt the reasoning set forth in *Fears, Jenness and Keene*.

D. Plaintiffs Have Alternative Sources for Information and Documents They Seek From Atlas Turner.

Plaintiffs have a number of alternative U.S. sources for many of the documents and much of the information contained therein which they seek here. Atlas Turner has no business records or other responsive documents in the United States in its possession, custody, or control. However, plaintiffs' counsel, who are sophisticated and a premier asbestos plaintiffs' law firm, undoubtedly have access to purported Atlas documents collected by other asbestos plaintiff's counsel around the country in various lawsuits ("Repositories"). Plaintiffs' counsel could also obtain various depositions that were taken many years ago. Further, plaintiffs can obtain, or have obtained in the past, information from co-defendants' document productions, including co-defendants Daniel International and Pharmacia (Monsanto). If plaintiffs' counsel have any relevant documents, Atlas Turner requests that they produce these documents. Plaintiffs should be able to obtain information they seek without exposing Atlas Turner to potential criminal penalties. Discovery should be the retrieval of available information from the least burdensome source.¹⁰

IV. Plaintiffs Cannot Demonstrate that Atlas Turner's Requested Protective Order Will Impair Their Case.

After the party seeking the protective order demonstrates good cause by showing a particularized harm from the discovery, the party seeking the discovery must come forward and show that the information sought is "both necessary and relevant" to the case. *Hamm*, 312 S.C. 238, 242, 439 S.E.2d 854. Because the Court lacks personal jurisdiction over Atlas Turner, Plaintiffs can make no such showing. As Atlas Turner shows in its Motion to Dismiss and Amended Memorandum in Support, as well as in its Motion for Summary Judgment and

¹⁰ Atlas Turner reserves the right to serve additional objections to the 30(b)(6) Notice should the Court order that a deposition may go forward.

supporting Memorandum with exhibits, this action should be dismissed pursuant to South Carolina law and the Due Process Clause of the United States Constitution. Further, Plaintiffs have alternative sources for information and documents they seek from Atlas Turner. Plaintiffs have not demonstrated a basis for jurisdictional discovery, much less a need for merits discovery in this action, and cannot show that the discovery they seek through the 30(b)(6) Notice is necessary and relevant to the case, nor that it is narrowly tailored to the allegations in the Third Amended Complaint.

CONCLUSION

For the reasons stated above, Atlas Turner respectfully requests that this Court issue a protective order precluding a deposition of Atlas Turner's corporate representative and precluding the production of documents pursuant to Plaintiffs' 30(b)(6) Notice pending the resolution of Atlas Turner's personal jurisdictional challenge. Further, in the event the Court does not grant Atlas Turner's Motion to Dismiss, the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition, or produce information or documents sought by Plaintiffs' 30(b)(6) Notice, because Atlas Turner has no current employees, has no former employees or individuals with personal knowledge, and for the most part does not even maintain or possess the records necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notice. Finally, in the event this Court does not grant Atlas Turner's motion to dismiss, then the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition, or produce information or documents sought

by the 30(b)(6) Notice, because of the QBCRA, which subjects Atlas Turner to criminal penalties in Quebec if it produces information or documents sought by Plaintiffs' 30(b)(6) Notice.

By the signature below, counsel for Atlas Turner affirms that he previously communicated orally and in writing with opposing counsel and attempted in good faith to resolve the matters contained in the motion.

NELSON MULLINS RILEY & SCARBOROUGH LLP

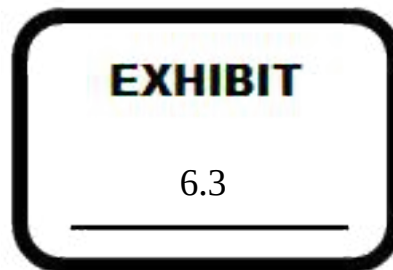
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Attorneys for Defendant Atlas Turner, Inc.

Columbia, South Carolina

April 3, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	CIVIL ACTION NO. 2022-CP-40-03834
Melvin G. Welch and Donna B. Welch,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
3M Company, et al.,	)	
	)	
Defendants.	)	



**DEFENDANT ATLAS TURNER, INC.’S MOTION FOR PROTECTIVE ORDER AND
MEMORANDUM OF LAW IN SUPPORT ON BEHALF OF ITSELF AND DEFENDANT
ATLAS ASBESTOS CO.**

Defendant Atlas Turner, Inc., sued incorrectly as successor to Atlas Asbestos Co., (“Atlas Turner”), on behalf of itself and Defendant Atlas Asbestos Co.,¹ by and through its undersigned counsel, and pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure, files this Motion and Memorandum seeking to be relieved from designating and producing a corporate representative for deposition, and from producing any information or documents, pursuant to the First Amended Notice of 30(b)(6) Deposition of Atlas Asbestos Co. served by Plaintiffs in this case.² First, nearly all the discovery Plaintiffs seek is merits discovery, and the Court should stay

¹ Although Atlas Asbestos Co. and Atlas Turner, Inc. are named in the Third Amended Complaint as separate defendants, they are not separate companies. Atlas Asbestos Co. changed its name to Atlas Turner, Inc. Therefore, Atlas Asbestos Co. and Atlas Turner, Inc. are two different names for the same company, and the proper name of the company is Atlas Turner, Inc.

² On July 25, 2022, Plaintiffs filed their original Complaint, and alleged Mr. Welch developed mesothelioma as the result of exposure to asbestos dust and fibers. *See* Complaint at ¶1. Atlas Turner, on behalf of itself and Defendant Atlas Asbestos Co., timely filed a Motion to Dismiss for Lack of Personal Jurisdiction with a Memorandum in Support and an affidavit from Richard Dufour dated September 7, 2022. Plaintiffs subsequently amended their Complaint several times, and most recently filed their Third Amended Complaint on November 3, 2022. In response, Atlas Turner timely filed Motions to Dismiss for Lack of Personal Jurisdiction and Memoranda in Support with the aforementioned affidavit of Mr. Dufour. On December 6, 2022, Plaintiffs served via email Plaintiffs’ Notice of 30(b)(6) Deposition of Defendant Atlas Asbestos Co. and Subpoena

discovery as to Atlas Turner until the Court rules on Defendant Atlas Turner's Motion to Dismiss for Lack of Personal Jurisdiction. Second, in the event the Court does not grant Atlas Turner's motion to dismiss, then the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition or produce information or documents sought by Plaintiffs' Notice of 30(b)(6) Deposition because Atlas Turner has no current employees, has no former employees or individuals with personal knowledge, and for the most part does not even

Duces Tecum and Plaintiffs' Notice of 30(b)(6) Deposition of Defendant Atlas Turner, Inc. and Subpoena Duces Tecum ("30(b)(6) Notices").

The 30(b)(6) Notices contained 74 topics and 23 document requests. Plaintiffs scheduled the depositions for February 2, 2023, and requested that the documents be produced no later than January 3, 2023, which was 28 days from the date the 30(b)(6) Notices were served. On December 30, 2022 Atlas Turner filed an Amended Memorandum in Support of the Motion to Dismiss. On January 3, 2023, Atlas Turner filed a Motion for Protective Order and Memorandum and Law in Support with affidavits and other exhibits on behalf of itself and Defendant Atlas Asbestos Co. Further, in an email to the Court and counsel of record dated January 5, 2023, counsel for Atlas Turner requested that the Court hear at the January 27, 2023 motions hearing or as soon as possible thereafter the following motions: (1) Motion to Dismiss Plaintiffs' Third Amended Complaint for Lack of Personal Jurisdiction of Defendant Atlas Turner, Inc. on Behalf of Itself and Defendant Atlas Asbestos Co. (filed November 17, 2022), and the Amended Memorandum with exhibits (filed December 30, 2022) and (2) Defendant Atlas Turner, Inc.'s Motion for Protective Order and Memorandum in Support on Behalf of Itself and Defendant Atlas Asbestos Co. (filed January 3, 2023). A copy of this email is attached as Exhibit 1. Due to a schedule conflict, Plaintiffs' counsel requested that the motions be heard on another date and requested two weeks to respond. *See* Exhibit 1. Counsel for Atlas Turner responded and requested that the Court schedule a hearing at the Court's convenience on a date after January 27, 2023, and requested that Atlas Turner, on behalf of itself and Defendant Atlas Asbestos Co., be given a week after Plaintiffs' responses in which to file replies.

On February 1, 2023, counsel for Plaintiffs cancelled the depositions scheduled for February 2, 2023. On March 16, 2023, Plaintiffs served Plaintiffs' First Amended Notice of 30(b)(6) Deposition of Defendant Atlas Asbestos Co. and Subpoena Duces Tecum ("the 30(b)(6) Notice"). On March 20, 2023 Defendant Atlas Turner, Inc., on behalf of itself and Atlas Asbestos Co., filed a Motion for Summary Judgment and filed a Memorandum in Support with affidavits and other exhibits. On April 3, 2023, Atlas filed a Motion for Protective Order and Memorandum in Support regarding the First Amended Notice of 30(b)(6) Deposition of Atlas Asbestos Co. and Subpoena Duces Tecum that had been served on March 16, 2023. On April 4, 2023, Plaintiffs served via email Plaintiffs' Second Amended Notice of 30(b)(6) Deposition of Atlas Asbestos Co. and Subpoena Duces Tecum.

maintain or possess the records necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notice. Third, in the event the Court does not grant Atlas Turner's motion to dismiss, then the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition, or produce information or documents sought by Plaintiffs' Notice of 30(b)(6) Deposition, because of the Quebec Business Concerns Records Act (QBCRA), which subjects Atlas Turner to criminal penalties in Quebec if it produces information and documents sought by Plaintiffs in the Notice of 30(b)(6) Deposition. In support of this motion, Atlas Turner states as follows:

BACKGROUND

In the Third Amended Complaint, Plaintiffs allege that Mr. Welch worked as an instrumentation specialist helper for Daniel Construction Company ("Daniel") at the Monsanto Chemical Plant [aka Chemstrand], in Greenwood, SC "in the mid-late 1960s" and was exposed to, among other things, asbestos-containing insulation products.³ Plaintiffs also allege that Mr. Welch later worked as an "automobile mechanic at various job sites" in the "late 1970s to the mid-late 2000s" and was exposed to asbestos from "clutches, gaskets, and brakes."⁴ Plaintiffs further allege Mr. Welch was exposed to asbestos-containing "friction products" such as brakes, clutches, and gaskets while working on personal vehicles and vehicles of his family and friends.⁵

On October 7, 11, 12, and 14, 2022, Mr. Welch was deposed and testified about his alleged asbestos exposure.⁶ Excerpts from the "trial" transcript dated October 7 are attached as Exhibit 2;

³ See Third Amd. Complaint at ¶ 91.

⁴ See Third Amd. Complaint at ¶ 93.

⁵ See Third Amd. Complaint at ¶ 98.

⁶ No one appeared on behalf of Atlas Turner at the deposition.

excerpts from the “discovery” transcript dated October 11 are attached as Exhibit 3; excerpts from the “discovery” transcript dated October 12 are attached as Exhibit 4.

Mr. Welch testified that he believes he was exposed to asbestos when he was employed by Daniel at Chemstrand, which was the “same as the Monsanto plant,” in Greenwood, SC (“Monsanto/Chemstrand Greenwood plant”), and also later at several different garages where he worked as a brake mechanic. *See* Exhibit 2, at pp. 17-19.

He testified that he worked for Daniel at the Monsanto/Chemstrand Greenwood plant “in 1965, 1966.” *See* Exhibit 2, at p. 18. He was hired as an instrumentation installation and calibration specialist helper. *See* Exhibit 2, at p. 19. In describing his work for Daniel at the Monsanto/Chemstrand Greenwood plant from about “1965 to '66,” he testified that it was “new construction” and included working around insulators who were insulating overhead pipes. *See* Exhibit 2, at pp. 26-27, 28, 29-30. Further, he stated that during his work in “1965, '66” he believes he was around asbestos-containing insulation. *See* Exhibit 4, at pp. 74, 72-73. More specifically, Mr. Welch testified that Daniel was the general contractor on the job; as far as he knows, the insulators were Daniel employees; Daniel was building a new unit; the insulators were installing new insulation on the pipes; and he was working under or below the insulators. *See* Exhibit 3, at pp. 90, 92, 96, 98. Mr. Welch did not identify any insulation products allegedly manufactured or sold by Atlas Asbestos Co. or Atlas Turner and did not mention the names “Atlas Asbestos Co.” or “Atlas Turner.” In fact, Mr. Welch did not identify the brand name or manufacturer of any insulation products at the Monsanto/Chemstrand Greenwood plant. He also agreed that he had identified all the brand names and manufacturers of asbestos-containing products that he believed he had been exposed to during his working career. *See* Exhibit 3, at p. 45. After working for Daniel

at the Monsanto/Chemstrand Greenwood plant, he went into the Air Force in 1967 and got out in 1970. *See* Exhibit 2, at p. 19; *see* Exhibit 3, at p. 41.

In 1977, Mr. Welch went to work as a mechanic at K-Mart and became a certified brake mechanic. *See* Exhibit 2 at p. 30-31. Thereafter, he worked as a brake mechanic for various companies until he retired around 2000. *See* Exhibit 2, at pp. 21-26 and pp. 30-52. Further, he claims to have performed work for himself, family and friends on automotive brakes, gaskets, and clutches from about 1958 through the 2000s. *See* Exhibit 2, at pp. 52-65.

In summary, Mr. Welch testified that he allegedly worked around asbestos-containing pipe insulation products while employed by Daniel at the Monsanto/Chemstrand Greenwood plant from approximately 1965 to 1966 and that he went into the Air Force from 1967 to 1970.⁷ Thereafter, he alleges he worked as a brake mechanic with asbestos-containing brake material from approximately 1977 until he retired around 2000, and alleges that he worked with asbestos-containing automotive brakes, gaskets, and clutches from approximately 1958 through the 2000s.

Defendant Atlas Turner was and is a corporation incorporated and organized under the laws of Canada with its principal place of business in the Province of Quebec, Canada. *See* Affidavit of Richard Dufour dated September 7, 2022, which is attached as Exhibit 6, at ¶ 3. Further, although Atlas Turner did manufacture asbestos-containing products, all sales of said

⁷ Mr. Welch's Social Security Itemized Statement of Earnings was received by defense counsel on March 29, 2023; it and the transmittal email are attached as Exhibit 5. There are some discrepancies between the dates of Mr. Welch's employment as testified by Mr. Welch compared to the Social Security document. Specifically, as to the dates of Mr. Welch's employment by Daniel, the records state that his employment by Daniel was from the last quarter of 1966 through the second quarter of 1967, not from 1965 to 1966. *See* Exhibit 5 at page 1. The discrepancy makes no difference to the position of Atlas Turner because Mr. Welch's dates of employment with Daniel ended before 1968.

products were made F.O.B. Montreal, Quebec, Canada and all payments were made to it in Montreal, Quebec, Canada. *See* Exhibit 6, at ¶ 3.

Most importantly, however, Atlas Turner has no records of sales to any company in South Carolina prior to 1968. *See* affidavit of Richard Dufour dated December 28, 2022, attached as Exhibit 7, at ¶ 12. Further, Atlas Turner never manufactured or sold any asbestos-containing brake material, clutch material, or gasket material. *See* Exhibit 7, at ¶ 13. Thus, Mr. Welch's cause of action did not arise out of or relate to the defendant's "contacts" with the forum because Atlas Turner had no contacts with the forum during the relevant time period. *See S. Plastics Co. v. S. Commerce Bank*, 310 S.C. 256, 260, 423 S. E. 2d 128, 131 (1992); *Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco County*, 137 S. Ct. 1773, 1780 (2017).

As explained in footnote 2, on April 4, 2023, Plaintiffs served via email Plaintiffs' Second Amended Notice of 30(b)(6) Deposition of Defendant Atlas Asbestos Co. and Subpoena Duces Tecum ("30(b)(6) Notice"). A copy of the 30(b)(6) Notice is attached as Exhibit 8. The 30(b)(6) Notice contains 75 topics and 25 document requests. Plaintiffs scheduled the deposition for April 20, 2023, and requested that documents be produced no later than April 6, 2023, which is two days from the date the 30(b)(6) Notice was served. As set forth in Exhibits A and B of the 30(b)(6) Notice, Plaintiffs seek testimony and documents nearly all of which are related to merits discovery that are wholly unrelated to the question of the Court's personal jurisdiction over Atlas Turner.

LEGAL STANDARD

Pursuant to Rule 26(c), SCRCP, "[u]pon motion by a party... and for good cause shown, the court in which the action is pending... may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense, including... (1) that the discovery not be had; (2) that the discovery may be had only on specified

terms and conditions...; (4) that certain matters not be inquired into or that the scope of the discovery be limited to certain matters....” When the discovery process threatens to become abusive or to create a particularized harm to a litigant or third party, the Rules allow the trial judge broad latitude in limiting the scope of discovery. *Hamm v. S.C. Pub. Serv. Comm’n*, 312 S.C. 238, 241, 439 S.E. 2d 852, 854 (1994).

If a person requesting a protective order shows a particularized harm which will be caused by allowing the discovery, the opposing party has the burden of showing the information sought is “relevant and necessary” to the case. In determining whether a protective order is necessary, the trial judge is required to weigh the factors of whether the information sought is “relevant and necessary” evidence against any particularized harm the opposing party may suffer. In determining whether information is necessary, the party seeking the information must “demonstrate with specificity exactly how the lack of information will impair the presentation of the case on the merits to the point that an unjust result is a real, rather than a merely possible, threat.” The trial court must determine whether there are reasonable alternatives available to discover the information.

Hollman v. Woolfson, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009) (citing *Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 474-76, 674 S.E.2d 154, 162-63 (2009); *Hamm*, 312 S.C. at 241, 439 S.E.2d at 854) (internal citations omitted).

Because Atlas Turner’s due process rights will be violated if it is required to participate in general discovery prior to this Court’s deciding whether it has personal jurisdiction over Atlas Turner, this Court should preclude Plaintiffs from requiring Atlas Turner to produce a corporate representative and produce information and documents in response to Plaintiffs’ 30(b)(6) Notice until it determines whether it has personal jurisdiction over Atlas Turner. Further, in the event the Court does not grant Atlas Turner’s motion to dismiss, then this Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition or produce information or documents sought by the 30(b)(6) Notice because of the absence of any current or

former employees or individuals with personal knowledge and the inability to educate a witness due to the lack of most relevant records and because of the QBCRA.

ARGUMENT

I. Requiring Atlas Turner to Produce a Corporate Representative, Information, and Documents Before the Court Has Determined Whether It Has Personal Jurisdiction Over Atlas Turner Would Subject Atlas Turner to Particularized Harm.

Good cause for a protective order exists when a party will suffer particularized harm if the challenged discovery takes place. *Hamm*, 312 S.C. at 241, 439 S.E. 2d at 854. First, as explained in Atlas Turner's Motion to Dismiss and Amended Memorandum in Support, there is no general jurisdiction over Atlas Turner. As for specific jurisdiction, Atlas Turner lacks contacts with South Carolina sufficient for this Court to exercise specific personal jurisdiction over it. Atlas Turner did not manufacture or sell asbestos-containing friction products such as automotive brakes, clutches, or gaskets. Thus, the only relevant jobsite is the Monsanto/Chemstrand Greenwood plant where Mr. Welch was employed by Daniel, and the relevant time period, based on the Social Security Itemized Statement of Earnings, is from the last quarter of 1966 through the second quarter of 1967; and Atlas Turner has no records of sales to any company in South Carolina prior to 1968. Therefore, Atlas Turner could not anticipate being haled into this Court and there are no contacts with South Carolina out of which Mr. Welch's suit can arise. Consequently, requiring Atlas Turner to participate in general discovery in this matter violates Atlas Turner's due process rights and constitutes a particularized harm to Atlas Turner. Moreover, Plaintiffs are not even entitled to jurisdictional discovery because they cannot demonstrate enough facts to support a *prima facie* showing of personal jurisdiction. *See Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 151-153, 723 S.E. 2d 835, 839-841 (2012). Based on bare allegations in the face of specific denials,

the Court should not permit even limited discovery if it will be a fishing expedition. *Id.* at 151, 723 S.E. 2d at 840.

Second, precluding Plaintiffs from moving forward with the deposition is necessary to ensure that Atlas Turner is not forced to risk waiving its jurisdictional defense. Participation in substantive discovery has been found to waive a defendant's personal jurisdiction defense. *See Maybank v. BB&T Corp.*, 416 S.C. 541, 564, 787 S.E. 2d 498, 510 (2016). To allow the deposition to proceed in this circumstance, thereby possibly forcing an involuntary "waiver" of the jurisdictional defense, is unfair and violates due process.

II. In the Event the Court Does not Grant Atlas Turner's Motion to Dismiss, Requiring Atlas Turner to Produce a Corporate Representative for Deposition, or Produce Information or Documents Sought by the 30(b)(6) Notice, Would Subject Atlas Turner to Particularized Harm Because it Lacks Individuals with Personal Knowledge and for the Most Part Does Not Maintain or Possess the Records That Would be Necessary to Educate a Witness to be Able to Testify to Matters Contained in the 30(b)(6) Notice.

As noted in Mr. Dufour's affidavit dated December 28, 2022, Atlas Turner ceased all operations in 1986; it has no current employees; it has no former employees competent to testify to the topics listed in the 30(b)(6) Notice, and for the most part does not even maintain or possess records that would be necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notice; and to the extent that relevant records do exist, their production would be prohibited by the QBCRA as interpreted by the courts in Canada and the Province of Quebec. *See* Exhibit 7 at ¶¶ 10, 11, 14, 15.

If a corporation genuinely cannot provide an appropriate designee because it does not have the information, cannot reasonably obtain it from other sources, and still lacks knowledge after reviewing all available information, then its obligations under the Rule cease. *QBE Ins. Corp. v. Jorda Enterprises, Inc.*, 277 F.R.D. 676, 690 (S.D. Fla. 2012). Further, a party cannot produce

documents it does not possess, and a party cannot create documents that do not exist. *See United States v. Remain at Home Senior Care, LLC*, Case No. 1:17-cv-01493-JMC, at *5-6 (D.S.C. Jan. 14, 2022).

Due to Atlas Turner's unique circumstances, in the event the Court denies Atlas Turner's motion to dismiss, this Court should not order Atlas Turner to produce a corporate representative for deposition, or produce information or documents sought by the 30(b)(6) Notice.

III. In The Event the Court Does Not Grant Atlas Turner's Motion to Dismiss, Then Requiring Atlas Turner to Produce a Corporate Representative for Deposition, or Produce Information or Documents Sought by the 30(b)(6) Notice, Would Subject Atlas Turner to Further Harm Because of The QBCRA.

A. The QBCRA Prohibits Atlas Turner Under Threat of Criminal Penalties from Providing Business Records, or Information from Business Records, Located in Quebec.

Atlas Turner is a Quebec corporation whose office is located in the province. Under Section 2 of the QBCRA, a copy of which is attached as Exhibit 9:

Subject to section 3, no person shall, pursuant to or under any requirement issued by any legislative, judicial, or administrative authority outside Quebec, remove or cause to be removed, or send or cause to be sent, from any place in Quebec to a place outside Quebec, any document or résumé or digest of any document relating to any concern.

The term "document" is defined as "any account, balance sheet, statement of receipts and expenditure, profit and loss statement, statement of assets and liabilities, inventory, report and any other writing or material forming part of the records or archives of a business concern." QBCRA, § 1(a). The term "concern" is defined as "any business concern in Quebec." QBCRA, § 1(b). The term "requirement" is defined as "any demand, direction, order, subpoena or summons." QBCRA § 1(c). The exception in Section 3 is limited to intra-company transfer in the normal course of business, the sale of securities, and as "authorized by any law of Quebec or of the Parliament of

Canada, in accordance with their respective jurisdictions.” QBCRA, § 3. Any person who infringes the provisions of Section 2 **shall** be guilty of contempt of court. QBCRA § 5 (emphasis added).

Quebec courts have made clear that other Quebec “concerns” would be subject to criminal penalties if they produced in U.S. litigation information or documents from their files in Quebec, and these opinions apply to Atlas Turner. In *Asbestos Corporation Limited v. Eagle Picher Industries, Inc.* (Court of Appeal, Montreal, February 24, 1984), a copy of which is attached as Exhibit 10, the Court of Appeal ruled that, if a witness was required to consult business records or archives of the employer, a Quebec “business concern,” in order to provide his testimony, such testimony would fall under the prohibition set out in Section 2 of the QBCRA. *See* Exhibit 10 at p. 11. Further, Judge Beauregard stated that “the filing ... of the documents ... joined to an examination of an agent of [Asbestos Corporation Limited] (“ACL”) whose testimony on these documents will be taken down by a stenographer who will translate his notes for the purposes of the foreign tribunal is equivalent, ... to the transmission out of Quebec of a ‘résumé or summary’ of the files of [ACL].” *Id.* at p. 11. Also, Judge Tyndale’s opinion, which follows the opinion of Judge Beauregard, states the QBCRA “[o]bviously ... forbids production of the documents Moreover, inspection by an attorney acting for Respondent would be useless unless he took notes, and this would lead to the export of a résumé or digest. *Id.* at pp. 1-2.

In *Pelnar v. Ins. Co. of North America* (Court of Appeal, Montreal, June 25, 1985) a copy of which is attached as Exhibit 11, the court held that the prohibition set out in Section 2 of the QBCRA is not only aimed towards business concerns, their officers or employees, but equally towards any persons who may have, or have had, in their possession documents or résumés thereof. *See* Exhibit 11 at pp. 5-6. Further, Quebec courts have ruled that the application of the QBCRA did not require a preliminary request from the Attorney General. *See Lac D’Amiante Du Quebec*

Limited v. Procureur General De La Province De Quebec (Court of Appeal, R.D.J., 287, 1989), a copy of which is attached as Exhibit 12, at p. 289. In addition, in *Renault v. Bell Asbestos Mines, Ltd.* (Court of Appeal, Montreal, August 13, 1980), a copy of which is attached as Exhibit 13, the court ruled that the word “document” related to much more than just accounting documents and that the QBCRA must be interpreted liberally and broadly. *See* Exhibit 13 at pp. 4-5.

Court opinions outside of Quebec that ignore the QBCRA do not magically transmute Atlas Turner’s predicament.⁸ Such decisions only show that Atlas Turner is beholden to two masters – stuck between facing criminal penalties in its domicile or displeasing this Court if it does not produce discovery to Plaintiffs’ satisfaction. Atlas Turner takes its discovery obligations seriously but also asks this Court to recognize and consider that Atlas Turner cannot please both masters at the same time. Application of fairness to the situation should enable Plaintiffs to obtain as much discovery as possible while not subjecting Atlas Turner to criminal penalties in its domicile. Several of this Court’s sister courts have reached this precise result.

For example, in *Jenness v. Turner and Newall Ltd.*, No. 83-61-L (D. N.H. Dec. 5, 1984), a copy of which is attached as Exhibit 14, plaintiff served interrogatories to ACL to investigate how much raw asbestos ACL sold to her employer. Exhibit 14, at p. 1. ACL admitted that it had sold asbestos to the plaintiff’s employer but could not “give the detailed answers that are required to

⁸ Atlas Turner is aware of two decisions in South Carolina in which the Courts have ruled unfavorably as to the QBCRA: *Lyons v. Bell Asbestos Mines, Ltd.*, 119 F.R.D. 384 (D.S.C. 1988); and *Central Wesleyan College v. W. R. Grace & Co.*, 143 F.R.D. 628 (D.S.C. 1992). These cases are not binding on the Court. In addition, in *Asbestos Corporation Limited v. Eagle Picher Industries, Inc.* (Court of Appeal, Montreal February 24, 1984), the Quebec Court of Appeal decided that if a witness is required to consult records or archives, such testimony would fall under the prohibition of the Section 2 of the QBCRA. *See* Exhibit 10. Further, in *Lac D’Amiante Du Quebec Limited*, the Court held that the application of the QBCRA did not require a preliminary request from the Attorney General. *See* Exhibit 12, at p. 289. Therefore, the South Carolina federal courts’ interpretations in *Lyons* and *Central Wesleyan* are erroneous and should not be based on their own interpretations of the law after the highest court in Quebec already ruled on the issue.

be given to plaintiff's interrogatories without reference to [ACL's] business records located in Canada." *Id.* at p. 2. As a result, the plaintiff moved for sanctions against ACL when it did not comply with the court's discovery order. The U.S. District Court for the District of New Hampshire described ACL's predicament: ACL found itself "between the Scylla of the criminal sanctions of the [QBCRA] and the Charybdis of the civil sanctions of this Court." *Id.* at p. 2. Considering ACL's quandary, the *Jenness* court found that ACL had "made a good faith effort to comply with this Court's order to answer the interrogatories" and that ACL's "fear that answering the interrogatories or giving the depositions would violate the [QBCRA] to be well founded." *Id.* at p. 3. The court ordered ACL to answer the plaintiff's interrogatories from documents and information that existed outside Quebec but that ACL did not have to answer the interrogatories from documents and information contained within Quebec. *Id.* at pp. 3-4.

Similarly in *Maryland v. Keene Corp.*, No. 1108600 (Md. Cir. Ct. July 10, 1986), a copy of which is attached as Exhibit 15, ACL sought a protective order from the plaintiff's discovery due to threat of sanctions under the QBCRA. Exhibit 15, at pp. 1-2. The *Keene* court concluded that because the QBCRA's potential penalties were "an annoyance, embarrassment and undue burden" to ACL, the court was "not convinced that it [wa]s necessary for ACL to face" the QBCRA's sanctions. *Id.* at p. 2. The court ordered that any of ACL's United States-based documents and information were discoverable but that "ACL's Canadian documents should enjoy the full protection which this Court can afford to them...." *Id.* at 3.

Further, in *Fears v. Cassair Mining, Corp.*, No. 91-98C(5) (E.D. Mo. Jan. 5, 1993), a copy of which is attached as Exhibit 16, the U. S. District Court for the Eastern District of Missouri did not find the analysis in *Lyons* persuasive because it did not deal with the Canadian courts' interpretation of the QBCRA or with the prior rulings of American courts. Rather, it adopted the

Jenness and *Keene* courts’ reasoning, concluding that “the approach taken by [those] courts is equitable and just in that it provides a broad opportunity for plaintiffs to achieve the discovery to which they are entitled without exposing [ACL] to criminal sanctions in Quebec.” Exhibit 16, at p. 3. The *Fears* court allowed discovery into ACL’s documents and information contained in the United States but upheld the QBCRA’s prohibition on discovery into ACL’s Quebec documents and information. *Id.*

B. Atlas Turner Cannot Answer Most of the Topics or Produce Most of the Documents in the 30(b)(6) Notice Without Violating the QBCRA.

Given Quebec court opinions interpreting the scope of the QBCRA, and lacking any source for information not subject to the QBCRA, Atlas Turner is unable to answer the Topics and Requests for Production contained in the 30(b)(6) Notice.

1. Topics

Virtually all of these Topics seek information relating to Atlas Turner’s activities from many years ago, and Atlas Turner either has no relevant documents or is prevented from providing information from any existing documents because of the QBCRA. In fact, the company has been closed since 1986. *See* Exhibit 7 at ¶ 10. Also, Atlas is unaware of any individual with personal knowledge of these Topics from whom it can obtain this information; and, to the extent that relevant records do exist, their production would be prohibited by the QBCRA as interpreted by the courts in Canada and the Province of Quebec. *See* Exhibit 7 at ¶¶ 14 and 15. Atlas is prohibited by the QBCRA from providing any information gleaned from its company records and other documents located in Quebec, or even acknowledging the existence of the information and documents, and therefore cannot respond under threat of criminal prosecution. Thus, notwithstanding any other objections to particular topics, Atlas is between the proverbial “rock

and hard place” – subject both to South Carolina’s discovery rules, on the one hand, and to its own domestic prohibition which subjects violators to criminal penalties.

2. Requests for Production

The same explanation with respect to the QBCRA applies to Atlas Turner’s inability to produce documents in response to nearly all of Plaintiffs’ requests. Atlas Turner either does not have the vast majority of relevant documents or the existing documents would be subject to the QBCRA. As discussed above, Atlas Turner is prohibited from producing any documents from its files in Quebec by the QBCRA, or even acknowledging the existence of responsive documents. As with its ability to answer Plaintiffs’ Topics, and notwithstanding any other objections to particular topics, Atlas Turner is between the proverbial “rock and hard place” – subject both to South Carolina’s discovery rules, on the one hand, and to its own domestic prohibition which subjects violators to criminal penalties. The QBCRA precludes Atlas Turner from producing the documents requested by Plaintiffs’ from its Quebec files, or even acknowledging the existence of such documents.

C. Based on the Unique Situation Involving Atlas Turner and the QBCRA, Atlas Turner is Entitled to Deferential Treatment under the Comity Principles of International Law.

Atlas Turner is not a typical asbestos defendant. Because it faces criminal penalties if it violates the QBCRA, it should be treated with deference. Consequently, this Court should make a comity analysis using the factors set forth in *Societe Nationale Industrielle Aerospatiale v. United States District Court for Southern District of Iowa*, 482 U.S. 522, 107 S.Ct. 2542 (1987) (*Aerospatiale*) and Restatement (Third) of Foreign Relations Law of the United States, § 442 (1987) (Restatement).⁹ In *Aerospatiale*, the Supreme Court dealt with a French “Blocking

⁹ Atlas Turner is aware of at least one decision in South Carolina in which the court referenced *Aerospatiale* in relation to the QBCRA: *Lyons v. Bell Asbestos Mines, Ltd.*, 119 F.R.D. 384

Statute.” The Court directed that district courts could find their guide to a comity analysis using factors articulated in the *Restatement. Aerospatiale*, 482 U.S. at 544, footnote 28. These factors are (1) the importance to the...litigation of the documents or other information requested; (2) the degree of specificity of the request; (3) whether the information originated in the United States; (4) the availability of alternative means of securing the information; and (5) the extent to which noncompliance with the request would undermine important interests of the United States, or compliance with the request would undermine important interests of the state where the information is located.

A comity analysis using the factors set forth in *Aerospatiale* supports deferential consideration for Atlas Turner. As for the second factor – the degree of specificity – many of plaintiffs’ requests are overly broad. For example, Topic 66 asks: beginning in the year that Defendant first manufactured, marketed, produced...sold...any asbestos-containing products and continuing through the present day, the identity [sic] each person who has held the position of corporate medical director, corporate safety director, and corporate industrial hygienist, however characterized. For each person identified, the person’s current or last known address and whether the person is currently alive or dead, if known. Also Topic 70 is “All information relating to the Defendant’s knowledge of asbestos.” As for the third factor – the origination of the information – this factor weighs heavily in favor of Atlas Turner since the information sought did not originate in the United States. As for the fourth factor – the availability of alternative means for securing the information – this factor weighs in favor of Atlas Turner as will be discussed below.

(D.S.C. 1988). In addition, the court in *Central Wesleyan College v. W. R. Grace & Co.*, 143 F.R.D. 628 (D.S.C. 1992) ruled unfavorably as to the QBCRA. See footnote 8 in this Memorandum. These two cases are not binding on this Court. This Court should adopt the reasoning set forth in *Fears, Jenness and Keene*.

D. Plaintiffs Have Alternative Sources for Information and Documents They Seek From Atlas Turner.

Plaintiffs have a number of alternative U.S. sources for many of the documents and much of the information contained therein which they seek here. Atlas Turner has no business records or other responsive documents in the United States in its possession, custody, or control. However, plaintiffs' counsel, who are sophisticated and a premier asbestos plaintiffs' law firm, undoubtedly have access to purported Atlas documents collected by other asbestos plaintiffs' counsel around the country in various lawsuits ("Repositories"). Plaintiffs' counsel could also obtain various depositions that were taken many years ago. Further, plaintiffs can obtain, or have obtained in the past, information from co-defendants' document productions, including co-defendants Daniel International and Pharmacia (Monsanto). If plaintiffs' counsel have any relevant documents, Atlas Turner requests that they produce these documents. Plaintiffs should be able to obtain information they seek without exposing Atlas Turner to potential criminal penalties. Discovery should be the retrieval of available information from the least burdensome source.¹⁰

IV. Plaintiffs Cannot Demonstrate that Atlas Turner's Requested Protective Order Will Impair Their Case.

After the party seeking the protective order demonstrates good cause by showing a particularized harm from the discovery, the party seeking the discovery must come forward and show that the information sought is "both necessary and relevant" to the case. *Hamm*, 312 S.C. 238, 242, 439 S.E.2d 854. Because the Court lacks personal jurisdiction over Atlas Turner, Plaintiffs can make no such showing. As Atlas Turner shows in its Motion to Dismiss and Amended Memorandum in Support, as well as in its Motion for Summary Judgment and supporting Memorandum with exhibits, this action should be dismissed pursuant to South Carolina

¹⁰ Atlas Turner reserves the right to serve additional objections to the 30(b)(6) Notice should the Court order that a deposition may go forward.

law and the Due Process Clause of the United States Constitution. Further, Plaintiffs have alternative sources for information and documents they seek from Atlas Turner. Plaintiffs have not demonstrated a basis for jurisdictional discovery, much less a need for merits discovery in this action, and cannot show that the discovery they seek through the 30(b)(6) Notice is necessary and relevant to the case, nor that it is narrowly tailored to the allegations in the Third Amended Complaint.

CONCLUSION

For the reasons stated above, Atlas Turner respectfully requests that this Court issue a protective order precluding a deposition of Atlas Turner's corporate representative and precluding the production of documents pursuant to Plaintiffs' 30(b)(6) Notice pending the resolution of Atlas Turner's personal jurisdictional challenge. Further, in the event the Court does not grant Atlas Turner's Motion to Dismiss, the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition, or produce information or documents sought by Plaintiffs' 30(b)(6) Notice, because Atlas Turner has no current employees, has no former employees or individuals with personal knowledge, and for the most part does not even maintain or possess the records necessary to educate a witness to be able to testify to matters contained in the 30(b)(6) Notice. Finally, in the event this Court does not grant Atlas Turner's motion to dismiss, then the Court should rule that Atlas Turner is not required to designate or produce a corporate representative for deposition, or produce information or documents sought by the

30(b)(6) Notice, because of the QBCRA, which subjects Atlas Turner to criminal penalties in Quebec if it produces information or documents sought by Plaintiffs' 30(b)(6) Notice.

By the signature below, counsel for Atlas Turner affirms that he previously communicated orally and in writing with opposing counsel and attempted in good faith to resolve the matters contained in the motion.

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April 6, 2023

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

MELVIN G. WELCH and
DONNA B. WELCH

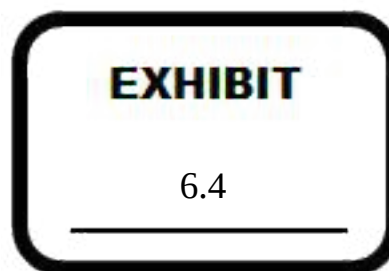
C/A NO. 2022-CP-40-03834

Plaintiffs,

v.

3M COMPANY
f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY, et al.

Defendants.



**PLAINTIFFS' SECOND AMENDED NOTICE OF 30(b)(6) DEPOSITION OF
DEFENDANT ATLAS ASBESTOS CO. AND SUBPOENA DUCES TECUM**

TO: ALL DEFENDANTS AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiffs, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, will take the videotaped deposition of the designated representative of Defendant **Atlas Asbestos Co.** on **April 20, 2023 at 10:00 am (ET)** and will take place at the location indicated below, at which time you are notified to appear and take part as you see fit and proper in such examination. The deposition will take place before a certified court reporter and videographer. If necessary, the deposition shall continue day to day.

JOIN ZOOM MEETING

<https://us02web.zoom.us/j/81225112357?pwd=dko5ZU4vUC9wdHpaM1FVRFYxLyt6Zz09>

Meeting ID: 812 2511 2357
Passcode: 276891

One tap mobile
+19294362866,,81225112357# US (New York)
+13017158592,,81225112357# US (Washington DC)

Dial by your location

+1 929 436 2866 US (New York)
+1 301 715 8592 US (Washington DC)
+1 305 224 1968 US
+1 309 205 3325 US
+1 312 626 6799 US (Chicago)
+1 646 931 3860 US
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US
+1 507 473 4847 US
+1 564 217 2000 US

Meeting ID: 812 2511 2357

Find your local number: <https://us02web.zoom.us/j/81225112357>

The deposition is to be taken for the purpose of discovery or for use at trial, or both. The topics to be covered at the deposition are listed in Exhibit “A” attached hereto. Pursuant to Rule 30(b)(5), Defendant is requested to produce documents responsive to the requests listed in Exhibit “B” also attached hereto. Pursuant to Rule 30(b)(5) the time for production of these documents is governed by Rule 34, which holds all responsive documents are due produced to Plaintiffs in 2 weeks from service, or specifically no later than April 6, 2023.¹

Respectfully submitted,

/s/ Aaron D. Chapman

Aaron D. Chapman (SC Bar No. 104485)

Dana C. Simon (To be admitted *pro hac vice*)

¹ Please note, previous document productions made by Defendants in separate cases have no impact on Plaintiffs’ document requests in their current case and may not be relied upon by Defendants as production of documents responsive to Melvin and Donna Welch’s requests included herein.

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ATTORNEYS FOR PLAINTIFFS

April 4, 2023

Dallas, Texas.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served on counsel for all parties via Certified U.S. Mail Return Receipt, U.S. Mail Standard First Class, and/or electronic mail this on April 4, 2023.

/s/ Aaron Chapman

Attorney for Plaintiffs

EXHIBIT A

For purposes of these topics, the following words shall have the following meanings: Definitions: "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors- in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

The term "PREMISES AT ISSUE" means any of the following worksites where Melvin Welch worked during his career from approximately 1960s to 2000s including but not limited to:

1. K-Mart – Greenwood, SC
2. M&M Tire – Greenwood, SC
3. Western Auto – Greenwood, SC
4. Monsanto/Chemstrand Chemical Plant, Greenwood SC
5. Any other site identified by Melvin Welch
6. Any other site on which Melvin Welch's father worked

Please provide a corporate representative to be deposed on the following subject matters:

1. All information about tremolite, actinolite, or anthophyllite asbestos in the same ore from which your asbestos is mined.
2. The registered name of the answering Defendant as well as all prior names or predecessor entities by which the Defendant has existed. For each, the current address and the state of incorporation and whether or not it is an active corporation.
3. The full and correct name, the principal place of business and the state and date of incorporation of Defendant.
4. Whether Defendant has ever held a certificate of authority to do business in South Carolina and the addresses for your registered agents for service in South Carolina.

5. Whether Defendant has a registered agent currently in South Carolina. If yes, the full name and full address of the registered agent located in South Carolina.

6. Whether Defendant has ever owned, leased, rented or otherwise operated or used any real or personal property, facility, store or distribution center located in the State of South Carolina.

7. Whether any property and/or facility which Defendant owned, operated, or controlled had any connection to the manufacture, sale, purchase, distribution, advertisement, application, installation, removal, marketing, development and/or use of asbestos or asbestos-containing materials/products in the state of South Carolina.

8. The names and addresses of persons or entities in South Carolina to whom Defendant sold or distributed any asbestos or asbestos-containing material/product (including insulation contracting as a service, or insulation sold as a product, or otherwise), and the details around such sales.

9. Whether it is more likely than not that any asbestos or asbestos-containing materials or products (including insulation contracting as a service, or insulation sold as a product, or otherwise) sold or distributed by Defendant would be used by, or purchased by, any person or entity with its ultimate use in South Carolina and the basis for your answer.

10. All distributors or wholesalers of Defendant's asbestos and/or asbestos-containing product and/or asbestos covered product in South Carolina.

11. All products, other than asbestos or asbestos-containing products, Defendant has ever sold, distributed, or delivered for sale or distribution, to persons or entities in South Carolina

12. Any lawsuit or other legal action taken by Defendant in any Court in the State of South Carolina against any person or entity including, but not limited to, claims for damages, counterclaims, cross-claims, or third-party claims.

13. Any lawsuit against Defendant in the State of South Carolina or other legal action where Defendant was found subject to personal jurisdiction in the state of South Carolina.

14. Whether any of the contracts that Defendant entered into in the normal course of business contain a forum selection clause, including but not limited to, a clause specifying the forum in which a lawsuit must be filed in the event litigation occurs between Defendant and another party to the contract and if so, which jurisdiction(s) did you specify.

15. The complete present address of Defendant's principal place of business.

16. All documents and tangible things used, related to, or referred to in connection with the preparation of this deposition. For all such documents and tangible things state the number of the topic.

17. The identity of each person who has supplied any information or assisted in locating any documents or tangible things used in answering or responding to this notice, a year-by-year list of all positions or job titles held by each person.

18. The names and addresses of persons known to Defendant or to counsel that have knowledge concerning the jobsites of the Plaintiff or, otherwise, the facts of this case and indicate whether or not written or recorded statements have been taken from such witnesses and indicate who has possession, custody or control of such statements.

19. When and how Defendant first learned that inhalation of asbestos fibers can lead to the development of each of the following asbestos-related diseases:

- (a) asbestosis;
- (b) pleural plaques;
- (c) pleural thickening;
- (d) interstitial fibrosis;
- (e) scarring of the lungs;
- (f) colon cancer;
- (g) laryngeal cancer;
- (h) esophageal cancer;
- (i) lung cancer; and
- (j) mesothelioma (pleural, peritoneal, or pericardial)

20. All trade organizations, trade associations, and any other groups to which Defendant, Defendant's representative or Defendant's current or former employees belonged in which information relating to the hazards of asbestos or nuisance dust in general was discussed, disseminated, or in any way published before 1980. This list should include (but is not limited to) any membership in the American Hygiene Foundation, Industrial Hygiene Foundation, Chemical Manufacturer's Association (or its predecessor, the MCA), American Chemical Council, American Petroleum Institute, National Safety Council, American National Standards Institute (ANSI), Asbestos Information Association, Industrial Medical Association, American Society of Mechanical Engineers; American Society for Testing and Materials, Chlorine Institute, American Industrial Hygiene Association, National Insulation Manufacturers Association, Asbestos Textile Institute, Society of Automotive Engineers, Society of Petroleum Engineers, ACGIH, American Occupational Medicine Association, American Public Health Association, Friction Materials Standards Institute, Brake Lining Manufacturer's Association, American Medical Association, NIOSH and any state safety organizations. As to each listed group, please state:

- (a) the time period when Defendant, Defendant's representative or Defendant's current or former employee(s) was a member;
- (b) the identity of Defendant's employees, former employees, or representatives who attended any of the meetings held by each listed group, as well as the dates and locations of the meetings they attended;
- (c) the identity of Defendant's employees, former employees, or representatives who served on any committees or subcommittees of any listed group (e.g., a medical advisory committee or legal committee); and
- (d) the name of the committee or subcommittee on which such person served and the position occupied on the committee, if applicable.

21. The identity of each of Defendant's employees, former employees, or representatives who attended any proceeding, symposium, or conference of a scientific, medical, or technical nature, before 1972, during which information relating to the hazards of asbestos or nuisance dust in general was discussed, disseminated, or in any way published (e.g., the effects of human or non-human exposure to asbestos, populations at risk, etc.). A response to this topic should include any attendance at the Seventh Saranac Symposium in 1952, the Proceedings of the New York Academy of Sciences in October of 1964, any meetings held by any organization in Defendant's response to topic no. 2. For each person identified, the proceeding, symposium, or conference the person attended; the date and location of the proceeding, symposium, or conference; the identity of the person within Defendant's organization who received or was designated to receive the attending person's report of the information gathered at such proceeding, symposium, or conference; and the manner in which such reports were made.

22. Whether Defendant has ever been investigated or cited by OSHA or any other local, state, or federal governmental agency for any matter related to asbestos or asbestos exposure. If so, the dates of such investigations, the results that were communicated to Defendant, and the remedial measures (if any) which were undertaken by Defendant.

23. Whether and, if so, how Defendant stores its documents and records including but not limited to any document retention or document destruction policies throughout Defendant's history from inception to the present.

24. How Defendant's documents are stored, indexed, organized or maintained and identify all records custodians, librarians or other individuals who have presently or have had in the past access to Defendant's document repository.

25. Defendant's complete corporate history, including its ownership, sale, acquisition, or divestiture, and any mergers, acquisitions, consolidations, or other similar events involving Defendant at any time during its history.

26. The first time Defendant became familiar with the concept of a threshold limit value (TLV) or permissible excursion level (PEL), for airborne dust, and how was Defendant first made aware of this concept.

27. Information regarding each expert witness that Defendant may call during the trial of this case including:

- (a) The name, address, and job classification of each such witness;
- (b) The subject matter on which the expert is expected to testify; and
- (c) The substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds or bases for each opinion.

28. Whether any person filed a claim against a Worker's Compensation carrier covering Defendant or any of its subsidiaries or predecessor companies alleging that he/she contracted a disease from inhaling asbestos fibers and if so:

- (a) A list of the claims, including each claimant's name, address and the date each claim was filed, and including the caption and jurisdiction of the claim;
- (b) The disease alleged in each such claim;
- (c) A brief summary of the disposition of each such claim; and
- (d) The name, address, and title of the person having custody of the records pertaining to each such claim.

29. The identity and address of all of Defendant's insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, policy limits and coverage dates.

30. All information regarding the first three (3) times Defendant was sued for damages related to exposure to asbestos from working with or around Defendant's products (including date of filing, jurisdiction, name of plaintiff, causes of action alleged, resolution outcome as to Defendant, etc.)

31. The financial condition of Defendant. (The court has ruled that at the discovery phase, the Defendant's net worth for the previous 2 calendar years is sufficiently responsive to this topic.)

32. The basis for the net worth value provided (this topic seeks the underlying data that supports or justifies the net worth value of Defendant for each given year, which will support how Defendant arrived at the net worth number provided).

33. The names, phone numbers and addresses of all lay witnesses whom Defendant presently intends to call to testify at trial, and the subject matter of their testimony and what connection each such person has with matters relevant to this lawsuit (e.g., former co-workers of Plaintiff, former plant manager of plant X, etc.) and whether the witness is within your control and if the witness is retained by counsel.

34. When Defendant first became aware of the Fleischer-Drinker Report and Dreessen Report and how Defendant learned of these Reports.

35. Whether Defendant contends that the fault of a person or entity other than this Defendant was a substantial contributing factor in the development of Plaintiff's (or Plaintiff's decedent's) mesothelioma. If Defendant's answer is anything other than no, the identify of all such entities and people by name.

36. Whether Defendant is asserting affirmative defenses in this case. If Defendant's answer is anything other than no, please:

- (a) State all facts in support of each affirmative defense;
- (b) Identify all witnesses with information in support of each affirmative defense; and
- (c) Identify all documents containing information in support of each affirmative defense.

37. Information regarding each and every piece of equipment or product that Defendant designed, specified, recommended, mined, manufactured, marketed, sold, supplied, distributed,

or patented that incorporated asbestos-containing parts or specified the use of asbestos or asbestos-containing products or otherwise utilized asbestos containing component parts in the design, manufacture, construction, erection, operation, service, and/or repair of such equipment including but not limited to:

- (a) the trade name or brand name of the product designed, specified, recommended, mined, manufactured, marketed, sold, supplied, distributed, or patented by Defendant;
- (b) a detailed description of the product, including a description of how and why the equipment involved the use of asbestos or asbestos-containing products;
- (c) the date the product was patented (if patented), placed on the market (if marketed), and the inclusive dates of the product's manufacture or sale (if manufactured or sold);
- (d) the physical and chemical composition of the product, including the type and/or brandname of asbestos contained in the product and the percentage or amount of asbestos in each product;
- (e) the date Defendant stopped designed, specified, recommended, mined, manufactured, marketed, sold, supplied, and/or distributing the product;
- (f) the date the product was removed from the market (if marketed) and no longer sold or distributed and the reasons therefore;
- (g) the date asbestos was removed from the product or no longer specified for use with the product, if ever, and the reasons for removing it;
- (h) the seller(s), distributor(s) and/or supplier(s) from whom Defendant purchased the asbestos used in each particular product, and the type (example: crocidolite, amosite, chrysotile) and quantity of asbestos Defendant purchased from each seller(s);
- (i) whether Defendant ever conducted any testing on the product to determine whether it posed any potential hazard to human or non-human health;
- (j) the plant or facility where the product was mined, manufactured, produced, or researched;
- (k) identity of the intended as well as foreseeable users of the product (such as insulators, helpers, pipefitters, boilermakers, welders, machinists, plasterers, drywall finishers, carpenters, shipwrights, etc.); and
- (l) a description of any warnings related in any way to asbestos that Defendant placed on the product or its packaging, operating manuals, brochures, catalogs, or other related printed material. This description should include the precise language of the warning, the size of the warning, the location on the product or its packaging where the warning was printed, and when the warning was first placed on the product. In addition, provide the explanation for why a warning or caution was added. If a warning was not given provide an explanation for why it was not given.

38. What year Defendant first begin selling or distributing each asbestos-containing product. Please be specific for each asbestos-containing product manufactured, sold or distributed by you.

39. What year defendant last sold, distributed or manufactured an asbestos-containing product. Please be specific for each asbestos-containing product.

40. Description of each product identified in response to topic number 36, as to its color and physical characteristics and appearances.

41. As to each product identified in response to topic number 36, information describing how such product was packaged or supplied.

42. As to each product identified in response to topic number 36, whether such product was ever further distributed, marketed, packaged, labeled, or sold by companies or individuals other than Defendant. If so, the identity of such companies or individuals, the dates those companies or individuals further distributed, marketed, packaged, labeled, or sold Defendant's asbestos-containing products, and the identity of the specific asbestos-containing products involved.

43. As to any product of Defendant identified in response to topic number 36, whether such product was generally expected to reach or packaged to reach, the consumer or user without substantial change in the condition in which it was sold. If not, with respect to each such product, what way Defendant claims such product was to be altered or substantially changed after sale or distribution and before reaching the consumer or user.

44. As to any product of Defendant identified in response to topic number 36, whether or not Defendant contends that such product can be generally utilized without liberating asbestos fibers into the air. If so, please identify such product, generally describe the intended use of the product, and explain how such use would not tend to liberate asbestos fibers into the air.

45. As to any product of Defendant identified in response to topic number 36, whether Defendant ever used any type of written sales contract between Defendant and the buyer of such equipment. If so, whether or not such written sales contract ever include a clause that Defendant would agree to repair and/or service the equipment if necessary.

46. If Defendant ever recommended the use of any asbestos-containing product with any equipment made or sold by Defendant.

47. If it was foreseeable to Defendant, at the time each type or piece of equipment identified in response to topic number 36 above was released for sale and distribution, that the asbestos or asbestos-containing products recommended or specified for use with such equipment might be removed, stripped, ripped out, or replaced at some time after installation.

48. If Defendant ever sold asbestos-containing replacement parts for any of the equipment made or sold by you. If so, the part and when it was sold.

49. For each type or piece of equipment identified in response to topic number 36, whether asbestos gaskets were utilized as component parts. If so, when?

50. For each type or piece of equipment identified in response to topic number 36, whether

asbestos packing was utilized as a component part at any time. If so, when?

51. For each type or piece of equipment identified in response to topic number 36, whether at any time, was it necessary, required or recommended for asbestos insulation to be utilized in conjunction with any of your equipment. If so, when and under what circumstances.

52. The serial numbers for any of your equipment identified that are (1) located in South Carolina and (2) located at jobsites in states other than South Carolina identified in the work histories of the Plaintiffs previously provided.

53. Whether Defendant claims that any patent would cover any product listed in response to the topics above. If so, the number of the patent, the date same was issued and the number of each patent application that is pending.

54. Whether Defendant sold and/or distributed products containing asbestos to the employers of Plaintiff (or Plaintiff's decedent) or the premises at issue during the time listed or any time prior thereto. Please note that this includes asbestos fiber, thermal insulation, refractory asbestos products or cloth or spray products containing asbestos, as well as all asbestos- containing equipment, and/or asbestos containing replacement component parts.

55. If the answer to the preceding topic is in the affirmative:

- (a) The names of the products sold;
- (b) To whom the product was sold and shipped;
- (c) As to each of the above-mentioned products, please include the quantities of each shipped to each company during the applicable time period; the site to which each product was shipped; and the date of shipment;
- (d) As to each of the products mentioned above, produce in electronic format copies of:
 - (1) Any pertinent trademark, copy of such trademark, and the trademark registration number;
 - (2) The label, or copy of the label, used in the packaging of the particular product;
 - (3) A photograph of the product itself;
 - (4) Sales brochures, specification sheets, performance data, or other promotional material as well as any and all installation materials, data or brochures which would have accompanied or been distributed in connection with the installation, application, or use of each of the above-mentioned products;
 - (5) Any invoices, purchase orders, sales receipts or other documents which show sales of any products to the worksites of Plaintiff or the employers of Plaintiff during the time Plaintiff was employed or worked at the worksite or prior.
- (e) If you cannot provide all of the above documents, please indicate the name or names of the individuals having custody of said documents or copies thereof.

56. Whether Defendant sold any products containing asbestos or any asbestos fiber to any of the defendants in this suit or their predecessors. If so, what years, to whom, and in what

quantities.

57. Whether Defendant sold any products containing asbestos or any asbestos fiber to any of the employers of Plaintiff. If so, what years, to whom, and in what quantities.

58. Whether Defendant sold any products containing asbestos or any asbestos fiber to any of premises at issue. If so, what years, to whom, and in what quantities.

59. Whether there was a service company associated with servicing your asbestos-containing products. (for example, Fisher Controls International was associated with Fisher Service Company who would be hired by customers such as Duke Energy to service the Fisher valves at the Duke Energy plants).

60. If your answer to the preceding topic is in the affirmative, the full name of the service company, the locations of the service company properties of which you are aware, and geographical jurisdiction of each service company.

61. Whether Defendant ever mined, manufactured, marketed, produced, researched, sold, distributed, or patent any product which did not contain asbestos and which could be substituted for any asbestos-containing product. If so, the identity of such asbestos-free product, and state the date such product was first placed on the market.

62. When, if ever, Defendant became aware of asbestos-free substitutes or alternatives for each asbestos-containing product mined, manufactured, marketed, produced, researched, sold, distributed, or patented by Defendant (e.g. mineral wool), regardless of Defendant's belief of the viability of such substitutes or alternatives.

63. Each asbestos-free substitute or alternative for any asbestos-containing product mined, manufactured, marketed, produced, researched, sold, distributed, or patented by Defendant, and when Defendant believed an asbestos-free alternative was an adequate substitute for the asbestos-containing product. If Defendant contends that asbestos free substitutes were not viable, the basis of that contention.

64. Any information about efforts by Defendant to protect users of the asbestos-containing product(s) you approved, designed, specified, sold, supplied or distributed to the premises at issue, from potential hazards associated with the use of said asbestos containing-product(s), and any such precautions and actions taken by you.

65. The identity of all persons with knowledge of facts relevant to the presence or absence of asbestos and/or asbestos-containing products approved, designed, specified, sold, supplied or distributed by Defendant at any of the premises at issue where Plaintiff, Plaintiff's decedent, or (in a household exposure case) exposed family member was present and any information as to the nature of the individual's knowledge as it relates to this subject matter.

66. Beginning in the year that Defendant first manufactured, marketed, produced, researched, sold, distributed, or patented any asbestos-containing product, and continuing

through the presentday, the identity each person who has held the position of corporate medical director, corporate safety director, and corporate industrial hygienist, however characterized. For each person identified, the person's current or last known address and whether the person is currently alive or dead, if known.

67. Whether there are any documents, including but not limited to, invoices, billing records, sales records, contracts, purchase orders, or any other like document that reflect the distribution, approval, specification or sale of asbestos-containing products (1) to premises at issue in South Carolina and (2) to premises at issue in states other than South Carolina identified in the work history of the Plaintiff previously provided.

68. Information regarding any contention that asbestos-containing products you specified, approved, or supplied were not or could not have been sold, distributed or otherwise present at any of the premises at issue which Plaintiff claims exposure to asbestos, and the reasons for this contention and the underlying basis for it. Also, the identity of the individual or individuals who will testify to this contention and the underlying basis for their testimony.

69. Information regarding any contention that there is another entity who was in an equal or better position to warn users of any asbestos related dangers of any asbestos-containing product or equipment made or sold by Defendant and the identity of that entity, the reasons you believe that entity had knowledge regarding the dangers of asbestos, when you believe that knowledge was obtained and the reasons you contend that the entity was in an equal or better position than you to make users aware of asbestos dangers relating to your products or equipment.

70. All information relating to Defendant's knowledge of asbestos hazards.

71. Detailed information about all insurance policies available to Defendant for the damages in the *Welch* case, and/or for premises at issue in the *Welch* case.

72. What You (the company) did to prepare for this deposition (documents searched for, documents reviewed, people searched for, people interviewed, etc.)

73. What the witness, in particular, did to prepare for this deposition, including but not limited to specifically how the witness prepared to discuss subjects outside of his/her personal knowledge (considering the former job duties and/or time period when the deponent was employed by You, if any).

74. Information regarding document searches You (the company) has performed at any time for litigation involving asbestos (i.e. when the search occurred, where it occurred, by whom, results, total bates-stamp range applied to all documents produced, etc.).

75. Information regarding document searches You (the company) has performed in this particular case. (i.e. when the search occurred, where it occurred, by whom, results, bates-stamp range applied to all documents produced, etc.).

EXHIBIT B

For purposes of these requests, the following words shall have the following meanings:

The terms "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors-in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

The term "PREMISES AT ISSUE" means any of the following worksites where Melvin Welch worked during his career from approximately 1960s to 2000s including but not limited to:

1. K-Mart – Greenwood, SC
2. M&M Tire – Greenwood, SC
3. Western Auto – Greenwood, SC
4. Monsanto/Chemstrand Chemical Plant, Greenwood SC
5. Any other site identified by Melvin Welch
6. Any other site on which Melvin Welch's father worked

Please produce the following:

1. Please produce all documents that reference tremolite.
2. Please produce all documents that reference tremolite, actinolite, or anthophyllite asbestos in the same ore from which your asbestos is mined.
3. Please produce all documents showing any services provided by Defendant to the premises at issue or employers of Plaintiff during the same years Plaintiff alleges working at the premises.
4. Please produce all documents concerning any tests conducted by you or on behalf of you to determine potential health hazards associated with the use of or exposure to asbestos fibers

associated with any products Defendant specified, approved, sold to or used at any of the premises at issue.

5. Please produce all documents identifying each distributor or wholesaler located or authorized to sell or distribute asbestos-containing products for you (1) in or for South Carolina and (2) in or for any premises at issue outside of South Carolina identified in Plaintiff's work history previously provided. For each distributor or wholesaler, please produce documents containing the following information:

- (a) Name and last known address;
- (b) The years of, and the geographical area encompassed by the relationship;
- (c) Whether there was a written distributorship agreement;
- (d) Whether the distributorship was exclusive; and
- (e) The extent to which sales to customers in this state were handled through distributors or wholesalers located outside this state.

6. Please produce all documents identifying the names, phone numbers and addresses of all lay witnesses whom you presently intend to call to testify at trial, and briefly identify the subject matter of their testimony and what connection each such person has with matters relevant to this lawsuit (e.g., former co-workers of Plaintiff, former plant manager of plant X, etc.). Indicate if the witness is within your control and if the witness is retained by counsel.

7. Please produce all documents which identify each asbestos-containing product that Defendant designed, specified, sold, supplied or distributed to the premises at issue at any time before Plaintiff's last day of alleged work at said worksite. Please produce documents containing the following information:

- (a) the trade name or brand name of the product mined, manufactured, marketed, produced, researched, sold, distributed, and/or patented;
- (b) the date the product was patented (if patented), placed on the market (if marketed), and the inclusive dates of the product's manufacture or sale (if manufactured or sold);
- (c) the physical and chemical composition of the product, including the type of asbestos contained in the product and the percentage or amount of asbestos in each product;
- (d) the date Defendant stopped mining, manufacturing, marketing, producing, researching, selling, and/or distributing the product;
- (e) the date the product was removed from the market (if marketed) and no longer sold or distributed and the reasons therefore;
- (f) the date asbestos was removed from the product, if ever, and the reasons for removing it;
- (g) the seller(s), distributor(s) and/or supplier(s) from whom Defendant purchased the asbestos used in each particular product, and the type (example: amosite, chrysotile) and quantity of asbestos Defendant purchased from the seller(s);
- (h) whether Defendant ever conducted any testing on the product to determine whether it posed any potential hazard to human or non-human health;
- (i) the plant or facility where the product was mined, manufactured, produced, or researched;

- (j) the foreseeable users of the product (such as insulators, helpers, pipefitters, boilermakers, welders, machinists, plasterers, drywall finishers, carpenters, shipwrights, etc.); and
- (k) a description of any warnings that Defendant placed on the product or its packaging, operating manuals, brochures, catalogs, or other related printed material. This description should include the precise language of the warning, the size of the warning, the location on the product or its packaging where the warning was printed, and when the warning was first placed on the product. In addition, include the explanation for why a warning or caution was added. If a warning was not given provide an explanation for why it was not given.

8. As to any asbestos-containing product designed, specified, sold, supplied or distributed by Defendant to the premises at issue at any time, produce all documents which indicate such products were ever further distributed, marketed, packaged, labeled, or sold by companies or individuals other than Defendant.

9. Please produce all documents that support Defendant's contention that as to each asbestos-containing product approved, designed, specified, sold, supplied or distributed by Defendant for the premises at issue or employer of Plaintiff, such product was or was not to be altered or substantially changed after sale or distribution and before reaching the consumer or user.

10. Please produce all documents showing at the time each asbestos-containing product was approved, designed, specified, sold, supplied or distributed by Defendant, that the product or one or more of its components might be removed, stripped, ripped out, or replaced at some time after installation.

11. Please produce all documents showing when, if ever, did Defendant become aware of asbestos-free substitutes or alternatives for such product (e.g. mineral wool), regardless of Defendant's belief of the viability of such substitutes or alternatives.

12. Please produce all documents in Defendant's possession discussing any asbestos-free substitute or alternative for any asbestos-containing product approved, designed, specified, sold, supplied or distributed by Defendant.

13. If it is your contention that you took the proper precautions to protect users of the asbestos-containing product(s) you approved, designed, specified, sold, supplied or distributed to the premises at issue, please produce all documents which support this contention.

14. Please produce all sales documents, including but not limited to, invoices, billing records, sales records, contracts, purchase orders, or any other like document that reflect the distribution, approval, specification or sale of asbestos-containing products (1) to premises at issue in South Carolina and (2) to premises at issue in states other than South Carolina identified in the work history of the Plaintiff previously provided.

15. If it is your contention that asbestos-containing products you specified, approved, or supplied was not or could not have been sold, distributed or otherwise present at any premises at issue at which Plaintiff claims exposure to asbestos, please produce all documents which support this contention.

16. Please produce all documents concerning each and every piece of equipment that Defendant approved, designed, specified, sold, supplied or distributed to the premises at issue or employers of Plaintiff in which asbestos containing parts are used or specified or otherwise utilized asbestos containing component parts in the design, manufacture, construction, erection, operations, service, and/or repair of such equipment. Specifically, please produce documents providing the following information:

- (a) the trade name or brand name of the equipment approved, designed, specified, sold, supplied or distributed by Defendant;
- (b) the type and/or brand name of asbestos or asbestos-containing product specified for use with the equipment;
- (c) the date the equipment was placed on the market, and the inclusive dates of the equipment's manufacture, sale, and distribution;
- (d) a detailed description of the equipment, including a description of how and why the equipment involved the use of asbestos or asbestos-containing products;
- (e) the date Defendant stopped approving, designing, specifying, selling, supplying or distributing the equipment;
- (f) if applicable, the date the equipment was removed from the market and no longer sold or distributed and the reasons therefore;
- (g) if applicable, the date asbestos was no longer specified for use with the equipment, and the reasons for no longer specifying it;
- (h) if applicable, the seller from whom Defendant purchased the asbestos containing equipment, and the type (example: amosite, chrysotile) and quantity of asbestos utilized in the product;
- (i) whether Defendant ever conducted any testing on the equipment to determine whether the use of the product posed any potential asbestos-related hazard to human or non-human health;
- (j) the plants or facilities where the equipment was installed;
- (k) the foreseeable users of the equipment (such as insulators, helpers, pipefitters, boilermakers, welders, machinists, plasterers, drywall finishers, carpenters, shipwrights, etc.); and
- (l) a description of any warnings regarding asbestos present on the equipment or its packaging, operating manuals, brochures, catalogs, or other related printed material. This description should include the precise language of the warning, the size of the warning, the location on the equipment or its packaging where the warning was printed, and when the warning was first placed on the equipment. In addition, include the explanation for why a warning or caution was added. If a warning was not given provide an explanation for why it was not given.

17. As to any equipment identified in response to topic number 36, please produce any type of written sales contract between Defendant and the buyer of such equipment, including any agreement to repair and/or service the equipment.

18. Please produce all documents showing the sale, supply or distribution of any asbestos-containing replacement parts for any of the equipment approved, designed, specified, sold, supplied or distributed by you to the premises at issue or employers of the Plaintiff.

19. Please produce all documents that support your contention that for each type or piece of equipment identified in response to topic number 36, that asbestos insulation, was or was not necessary, required or recommended to be utilized in conjunction with any such equipment.

20. Please produce all documents showing the serial numbers for any equipment identified in your responses to topics above (1) located at the premises at issue or employers of Plaintiff in South Carolina and (2) located at premises at issue in states other than South Carolina identified in the work history of the Plaintiff previously provided.

21. If you contend that there is another entity who was in an equal or better position to warn users of any asbestos related dangers of any asbestos-containing product or equipment approved, designed, specified, sold, supplied or distributed by you to the premises at issue or employer(s) of Plaintiff, please produce all documents which support this contention.

22. Please produce all insurance policies available to Defendant for the damages in the *Welch* case, and/or for premises at issue in the *Welch* case.

23. Please produce all documents regarding Defendant's knowledge of asbestos hazards.

24. Please produce all documents reviewed by the witness, and any notes taken in review of such documents.

25. Please produce any written procedure for document searches, or notes taken during document searches or descriptions of document searches You (the company) has done at any time for litigation involving asbestos, including but not limited to the current case (i.e. when the search occurred, where it occurred, by whom, etc.).

chapter D-12

BUSINESS CONCERNS RECORDS ACT

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REPEAL SCHEDULE



RECORDS OF CONCERNS

1. In this Act, the following words mean:

(a) “document” : any account, balance sheet, statement of receipts and expenditure, profit and loss statement, statement of assets and liabilities, inventory, report and any other writing or material forming part of the records or archives of a business concern;

(b) “concern” : any business concern in Québec;

(c) “requirement” : any demand, direction, order, subpoena or summons.

R. S. 1964, c. 278, s. 1.

2. Subject to section 3, no person shall, pursuant to or under any requirement issued by any legislative, judicial or administrative authority outside Québec, remove or cause to be removed, or send or cause to be sent, from any place in Québec to a place outside Québec, any document or résumé or digest of any document relating to any concern.

R. S. 1964, c. 278, s. 2.

3. The prohibition enacted in section 2 shall not apply in the case of the removal or sending of a document out of Québec

(a) by an agency, branch, legal person or firm carrying on business in Québec, to a principal, head office, affiliated legal person or firm, agency or branch situated outside Québec, in the ordinary course of their business;

(b) by or on behalf of a natural or legal person, a partnership or an association that is not a legal person carrying on business in Québec, to a territory subject to another political jurisdiction in which the sale of the securities of such person, partnership or association has been authorized;

(c) by or on behalf of any such person, partnership or association carrying on business in Québec as a broker, security issuer or salesman within the meaning of the Securities Act (chapter V-1.1), to a territory subject to another political jurisdiction in which any such person, partnership or association has been registered or is otherwise authorized to carry on business as broker, security issuer or salesman, as the case may be;

(d) whenever such removal or sending is authorized by any law of Québec or of the Parliament of Canada, in accordance with their respective jurisdictions.

R. S. 1964, c. 278, s. 3; 2009, c. 52, s. 590.

4. Whenever there is reason to believe that a requirement has been or is likely to be made for the removal or sending out of Québec of a document relating to a concern, the Attorney General may apply to a judge of the Court of Québec, in the judicial district where the concern in question is located, for an order requiring any person, whether or not designated in the requirement, to furnish an undertaking or security to ensure that such person will not remove or send out of Québec the document mentioned in the said requirement.

In case of urgency, the application may be filed and presented to the judge without prior service. The judge may however order the service thereof within such time, in such manner and on such conditions as he may consider expedient.

Every person having an interest in a concern may exercise the rights contemplated in this section.

R. S. 1964, c. 278, s. 4; 1965 (1st sess.), c. 17, s. 2; 1988, c. 21, s. 66; 1999, c. 40, s. 109; I.N. 2016-01-01 (NCCP).

5. Every person who, having received notice of an application to a judge of the Court of Québec under section 4, infringes the provisions of section 2, shall be guilty of contempt of court.

RECORDS OF CONCERNS

Every person who has furnished, or has received from the judge an order to furnish, an undertaking or security and who infringes the provisions of section 2 shall be guilty of contempt of court in addition to any obligation provided by the undertaking or security furnished or ordered by the judge.

R. S. 1964, c. 278, s. 5; 1965 (1st sess.), c. 17, s. 2; 1988, c. 21, s. 66; 1990, c. 4, s. 388; 1992, c. 61, s. 267; I.N. 2016-01-01 (NCCP).

6. *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

RECORDS OF CONCERNS

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 278 of the Revised Statutes, 1964, in force on 31 December 1977, is repealed effective from the coming into force of chapter D-12 of the Revised Statutes.

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF RICHLAND	)	COURT OF GENERAL SESSIONS
	)	2022-CP-40-03834
	)	
	)	
	)	
	)	
MELVIN G. WELCH,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
3M COMPANY, et al,	)	
DEFENDANT.	)	
	)	

April 19, 2023
Columbia, South Carolina

B E F O R E:

THE HONORABLE JEAN H. TOAL, JUDGE.

A P P E A R A N C E S:

DAVID TRAYLOR, ESQ.
Attorney for Defendant

THEILE B. MCVEY, ESQ.
Attorney for Plaintiff

JENNIFER TECHMAN, ESQ.
Attorney for Defendant

JONATHAN HOLDER, ESQ.
Attorney for Plaintiff



AMBER PAYNE, CVR
Circuit Court Reporter

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There were no exhibits entered during this hearing.

P R O C E E D I N G S

(Whereupon, the hearing began at
10:07 a.m.)

ATLAS ASBESTOS/ATLAS TURNER'S MOTION TO
DISMISS/PROTECTIVE ORDER/SUMMARY JUDGMENT

THE COURT: All right. What's the next thing? All right. That's Welch, all right. And the first one is Atlas Asbestos, Atlas Turner's Motion to Dismiss, Protective Order, Summary Judgment, and Spirax's Motion for Summary Judgment. So I'm gonna hear Atlas -- Atlas Turner's Motion to Dismiss, etc., first.

MR. TRAYLOR: Good morning, Your Honor.

THE COURT: Good morning. Now, remember you always recite your name for our --

MR. TRAYLOR: Yes.

THE COURT: -- court reporter --

MR. TRAYLOR: Yes, Your Honor.

THE COURT: -- and who you represent.

MR. TRAYLOR: David Traylor, T-r-a-y-l-o-r, on behalf -- or representing Atlas Turner, Inc., on behalf of itself and defendant, Atlas Asbestos, Co. I'll just refer to them as "Atlas."

Your Honor, we filed a number of motions to dismiss for lack of personal jurisdiction. We have

1 not filed an answer, so we're standing on the papers
2 that we filed. We have filed an amended motion to
3 dismiss for lack of personal jurisdiction on
4 December --

5 THE COURT: When --

6 MR. TRAYLOR: -- 30th.

7 THE COURT: When did you file that?

8 MR. TRAYLOR: What I want to do today is focus
9 primarily on --

10 THE COURT: When did you file the amended motion?

11 MR. TRAYLOR: In -- on December 30th, Your Honor.

12 THE COURT: I see. Okay.

13 MR. TRAYLOR: What I want to do today is to focus
14 primarily on the motion to dismiss that was set
15 forth in our motion for summary judgment.

16 THE COURT: Right.

17 MR. TRAYLOR: And the plaintiff's memo in opposition
18 because that -- that's the first time we had
19 opposition and our reply.

20 I -- if -- if you'll bear with me, I want to
21 just mention several facts which we think make this
22 case unique. First of all, the plaintiff worked for
23 Daniel at the Monsanto Plant (phonetic) in
24 Greenwood, South Carolina from 1965 to 1966, or
25 either from 1966 until early 1967. The latest date

1 is from a Social Security printout that I, I guess,
2 along with everybody else, received in late March.
3 But the latest date he worked would have been in the
4 second quarter of 1967 at this Monsanto Plant, and
5 the earliest he would have worked would have been
6 1965, but it's about a nine-month period.

7 After he worked for Daniel at the Monsanto
8 Plant, he went into the Air Force and then he had a
9 career as a brake mechanic. Just a couple of
10 further points about his work history, he was an
11 instrument technician helper for Daniel at the
12 Monsanto Plant. He testified that he was -- that --
13 that Daniel was performing new work. He claims that
14 insulators were above him using pipe covering. He
15 thought the -- the insulators were Daniel employees.
16 He did not know the manufacturer or brand of the
17 pipe covering. He did not know the composition,
18 although he said, "It felt like fiberglass."

19 It was the only job where he claims exposure to
20 pipe insulation. And we submitted an affidavit in a
21 number of our filings, particularly in the December
22 30th, but, also, in -- in the reply to the
23 protective order.

24 THE COURT: Well --

25 MR. TRAYLOR: The affidavit --

1 THE COURT: -- Mr. Traylor --

2 MR. TRAYLOR: Okay.

3 THE COURT: -- all this is kind of a roundabout.

4 Here's what they say.

5 MR. TRAYLOR: Right.

6 THE COURT: They say that Atlas Turner is a
7 successor to Atlas Asbestos Company, a Canadian
8 company that supplied asbestos insulation,
9 specifically Newtherm and Limpet, all right, to
10 products at the Monsanto Plant in the time period
11 that this guy --

12 MR. TRAYLOR: Okay.

13 THE COURT: -- worked there. So let's deal with
14 that.

15 MR. TRAYLOR: Okay.

16 THE COURT: I'm gonna --

17 MR. TRAYLOR: That's fine, Your Honor. Okay. I
18 just wanted --

19 THE COURT: And -- and that's all they need to do to
20 avoid summary judgment.

21 MR. TRAYLOR: Okay.

22 THE COURT: They placed that in, so --

23 MR. TRAYLOR: Well --

24 THE COURT: -- I am not going to respond, all right.
25 I -- I won't, all right, spend any time worrying

1 about, all right, the niceties of jurisdiction.

2 They -- this company is a successor in the interest
3 of a supplier at Monsanto during the time when he
4 says he was exposed. Whether it's a short duration,
5 long duration, long ago, or whatnot, that will be a
6 battle of the evidence, but that, in the terms of
7 jurisdiction, is all I need.

8 MR. TRAYLOR: Okay. Your Honor, and you're
9 referring to, I assume their response to --

10 THE COURT: Yes. I am.

11 MR. TRAYLOR: -- our motion. And, Your Honor, I
12 would submit, first of all, that none of those
13 exhibits support what they say. I mean, I can go --
14 and we went through in our reply on Pages 12 through
15 14 and itemized and analyzed each one of those
16 exhibits. And none of those exhibits support that,
17 either
18 they're --

19 THE COURT: Mister --

20 MR. TRAYLOR: -- after --

21 THE COURT: -- Mr. Traylor, right now we are having
22 a discussion of jurisdiction. We are not talking
23 about weight of evidence; we are not talking about
24 whether it proves their case. We are simply talking
25 about what I have in front of me at this moment,

1 either by way of what's brought in the complaint or
2 by way of anything else that's been placed, all
3 right -- all right, in contention in reply to your
4 motion about jurisdiction. And it, all right, is
5 sufficient to establish jurisdiction. It says your
6 company was the supplier of Monsanto during the time
7 he worked.

8 MR. TRAYLOR: Well, I -- I hear Your Honor - excuse
9 me. And I would respectfully -- to at least assert
10 that we -- the -- an examination of those exhibits
11 is totally inconsistent with the assertions. And we
12 set forth in our brief -- our

13 THE COURT: I see --

14 MR. TRAYLOR: -- memorandum every one of them. And
15 in a -- and -- and what they actually do is support
16 our position that either there were no sales before
17 1968 to South Carolina, or there were -- and there
18 were no references to Monsanto before 1968 in any of
19 those exhibits, which were Exhibits 13 through 22.

20 So -- and -- and based on that, we believe that
21 the cause of action cannot arise from any alleged
22 contacts when there's no evidence to support any
23 contacts.

24 THE COURT: Okay. I understand you completely.

25 MR. TRAYLOR: Thank you, Your Honor.

1 THE COURT: All right. Ms. McVey.

2 MS. MCVEY: Yes, ma'am, Your Honor.

3 Your Honor, I'm gonna hand up just a couple of
4 exhibits, the exhibits we're talking about. And
5 I've highlighted for you -- first, let me make sure
6 the record is clear, that Atlas has refused to
7 engage in any discovery, either jurisdictional
8 discovery or anything else. So they get to say,
9 "You can't prove that we were here during the right
10 time periods, because we refuse to engage."

11 So what we did is we found out, guess what, of
12 course they were supplying to South Carolina. They
13 were supplying to Covil in South Carolina, a South
14 Carolina corporation, and they were supplying to Guy
15 M. Beaty, both of whom were Defendants in this case.

16 All right. So I'm going to hand you the first
17 thing, which is an Atlas list. It lists all their
18 customers; it starts in 1967. Now, it has Guy M.
19 Beaty and Covil listed on here. It says, "We don't
20 have any records prior to 1968." We don't know if
21 that's true or not, because they won't let us do the
22 discovery that we need to do, which I'm gonna ask
23 you to order them to do.

24 But I want to show you this customer list,
25 which is more than satisfies the Supreme Court

1 precedent in the Ford case, which says that, "Atlas
2 purposely availed themselves of this forum in South
3 Carolina." Mr. Welch is a South Carolina resident.
4 THE COURT: All right. But just for the record,
5 this is a schedule, "Following the customers in the
6 Southeast United States to whom Atlas sold asbestos
7 insulation. We have no record prior to 1968."
8 First on the list, "Guy M. Beaty, Chattanooga,
9 Tennessee and Charlotte, North Carolina." Well, I'm
10 very familiar with that company; they supply a lot
11 of South Carolina companies, including all things
12 we're talking about here, and the reference are '67
13 through '73, all right.
14 MR. TRAYLOR: Your Honor, may I ask --
15 THE COURT: Covil Corporations, Greenville, South
16 Carolina. Extremely, they were probably the biggest
17 insulator, all right, in South Carolina, and
18 insulated at all these plants we're talking about.
19 This is '68 through '73, all right, certainly
20 they're not going to be able to hide behind, "We --
21 we don't have any records." All right. Those are
22 sufficient in my view to establish, all right,
23 jurisdictional facts sufficient, all right, to deny
24 any motion to dismiss for lack of jurisdiction.
25 MS. MCVEY: Thank you, Your Honor. And -- and I

1 have, of course, more exhibits. I'm happy to hand
2 them up to you, actually on
3 asbestos -- Atlas Asbestos Company documents, its
4 sales records to Guy M. Beaty, February 23rd, 1967,
5 when clearly Mr. Welch --
6 THE COURT: All right.
7 MS. MCVEY: -- was working.
8 THE COURT: You want to hand that up?
9 MS. MCVEY: So I'll hand that up to you. I'm gonna
10 hand all of these to you. I don't know that you
11 need them all, but -- and these were all Mr. Traylor
12 (as spoken) exhibits that
13 were --
14 MR. TRAYLOR: Could you just tell me the exhibits?
15 I apologize, the ones -- you don't have the numbers?
16 MS. MCVEY: I -- I don't have the --
17 MR. TRAYLOR: Okay.
18 MS. MCVEY: -- numbers because I just pulled them,
19 but it's all the ones that were attached to our --
20 and I can --
21 THE COURT: (To Mr. Traylor) This is stuff that you
22 gave them, so --
23 MS. MCVEY: No. They haven't given us anything.
24 This is stuff --
25 THE COURT: Okay.

1 MS. MCVEY: -- that we found. Do you need to see
2 them?

3 THE COURT: Oh, this is stuff --

4 MR. TRAYLOR: I can give you the numbers --

5 THE COURT: -- you found otherwise?

6 MS. MCVEY: Yes, ma'am.

7 MR. TRAYLOR: -- if you just want the numbers.

8 MS. MCVEY: I -- I don't have them.

9 THE COURT: It doesn't have any numbers on it.

10 MR. TRAYLOR: Should be in the exhibits.

11 THE COURT: I'll take care of that, Mr. Traylor, but
12 it's certainly --

13 MR. TRAYLOR: Yes, ma'am.

14 THE COURT: -- is got "Atlas Asbestos Company" on
15 it, and "Guy M. Beaty, Charlotte, North Carolina,"
16 all right. And it's Newtherm, all right, it's FOB,
17 Montreal to Charlotte, and it's a Newtherm-type
18 covering, all right.

19 MS. MCVEY: And -- and, Your Honor, so the --

20 THE COURT: And it's got the blocks of it; we know
21 exactly what that is.

22 MS. MCVEY: And -- and just for the record, it's --

23 THE COURT: All right. I mean, this is plenty
24 sufficient. This is on your company's own billing
25 head. All right. What I'm gonna ask you is I'm

1 gonna give these back to you, all right, Ms. McVey.
2 You can show them to him, Mr. Traylor, and, all
3 right, then just put them all together and make
4 them, all right, Plaintiff's Exhibit 1, or I can
5 make them Court's exhibits.

6 MS. MCVEY: Your Honor, we'll do that. They were
7 attached to our motion, I believe --

8 THE COURT: Oh, okay.

9 MS. MCVEY: -- in response --

10 THE COURT: Well, if they were attached to the
11 motion --

12 MR. TRAYLOR: We've already got them.

13 THE COURT: -- he's already seen them.

14 MS. MCVEY: So he's seen them, I just didn't have
15 exhibit numbers on them, so that's my -- that's my
16 bad.

17 And -- and the other thing, just for the
18 record, is this Newtherm is proprietary to Atlas, so
19 when you say --

20 THE COURT: Exactly.

21 MS. MCVEY: -- "Newtherm," we know it's Atlas.

22 THE COURT: Okay.

23 MS. MCVEY: Your Honor --

24 THE COURT: It's under "and limited for a
25 proprietary to limited"?

1 MS. MCVEY: That's right.

2 THE COURT: All right.

3 MS. MCVEY: Your Honor, I'm happy to address the
4 summary judgment motion, or I didn't know if you
5 wanted to do jurisdiction and then we can move on to
6 --

7 THE COURT: Yeah. Let's go on to summary judgment,
8 as well.

9 MS. MCVEY: (To Mr. Traylor) Do -- did you argue --

10 THE COURT: All right. Yeah.

11 MS. MCVEY: -- summary judgment?

12 THE COURT: Mr. Traylor?

13 MR. TRAYLOR: Yes, Your Honor.

14 THE COURT: All right. If -- if you've seen those
15 and they're attached, then I will take them back.
16 No -- no sense in looking if
17 you --

18 MR. TRAYLOR: Oh, we don't have a copy of --

19 THE COURT: Oh, okay. No --

20 MR. TRAYLOR: Can I just address each one of them
21 with -- or how do you --

22 THE COURT: You know, Mr. Traylor, I -- we've got a
23 lot to do today.

24 MR. TRAYLOR: Right.

25 THE COURT: This is -- if you take a look at them,

1 they're your company's records. They're during the
2 time period we're talking about. They shipped to
3 Guy M. Beaty, which is a, all right --

4 MR. TRAYLOR: It's a North Carolina --

5 THE COURT: -- to Celanese, DuPont, all right, and
6 for Owens Corning.

7 MS. MCVEY: And Covil. And there's Covil documents
8 in there, as well.

9 THE COURT: And they're Covil documents in there,
10 too. They're -- and they're also suppliers to the
11 three companies we're talking about, so, all right,
12 you know --

13 MR. TRAYLOR: I'm just gonna address these briefly,
14 if that's all right.

15 THE COURT: It is not all right to go on and on
16 about it.

17 MR. TRAYLOR: I -- I --

18 THE COURT: If you've got some general comment to
19 make, you make it.

20 MR. TRAYLOR: You -- you want to look at these?

21 THE COURT: Yes, sir.

22 MR. TRAYLOR: I have two -- at least two comments.
23 First of all, sales to Guy M. Beaty are sales to a
24 North Carolina company, and they have nothing to do
25 with the Monsanto Plant. Sales to Covil are '68 or

1 later, which is exactly what we said, that there are
2 no records of sales to any South Carolina company
3 prior to 1968, and Mr. Welch is gone by 1967. The -
4 - the sales to --

5 THE COURT: Unh-unh. The -- the -- what you
6 supplied was something that said, "The following are
7 customers in the Southeast United States to whom
8 Atlas sold asbestos insulation. We have no records
9 prior to 1968." It didn't purport to, all right,
10 say anything confining it to South Carolina. You
11 said you don't have any records prior to 1968 for
12 the Southeast of the United States. That's what
13 this --

14 MR. TRAYLOR: Well, the affidavit says, "No sales --
15 no records of sales to companies in South Carolina
16 prior to 1968." That's in --

17 THE COURT: And what they're contending is this:
18 You supplied to a wholesaler or installer, all
19 right. Covil was both, who then supplied to these
20 South Carolina plants. That's what they're saying.

21 MR. TRAYLOR: Okay. And, Your Honor, there's no
22 evidence that there's any Atlas product at a
23 Monsanto Plant, at least prior to 1968.

24 I -- I . . .

25 THE COURT: Well, I -- I disagree with you based on

1 what has been submitted by Plaintiff, all right --
2 all right. And I just -- I've tried enough of these
3 asbestos cases to know about this supply chain
4 situation. So I know that there is at least some
5 evidence that would allow jurisdiction to be
6 asserted against your company.

7 MR. TRAYLOR: Okay. And, now, I thought we were
8 talking about the summary judgment, though, it may
9 be --

10 THE COURT: Well, let's talk about the summary
11 judgment.

12 MR. TRAYLOR: -- the summary judgment is the same
13 argument --

14 THE COURT: It's the same argument.

15 MR. TRAYLOR: -- Your Honor, and I don't -- and I --
16 I do not believe, and I'm 99 and three quarters
17 percent positive, that none of those records show
18 sales of any Atlas product to a company in South
19 Carolina prior to 1968, and Mr. Welch is gone by
20 then.

21 THE COURT: But, again, that's because you don't
22 have any records. But this is an indication that --
23 that these -- these columns -- and they actually
24 kind of, all right -- all right, not completely
25 consistent, because you say it's -- you don't have

1 anything prior to 1968, but some of these columns
2 show records from 1967 --

3 MR. TRAYLOR: And --

4 THE COURT: -- all right.

5 MR. TRAYLOR: -- the --

6 THE COURT: And, all right. So I don't know what
7 the status of your records is, but I think showing
8 the supply to these
9 particular -- particularly Beaty and Covil, which
10 were very active in South Carolina, all right, in
11 those years, all right, is at least, all right,
12 enough of an indication for the presence of this
13 equipment, because you sold this stuff way before
14 1968. It's just you don't have the sales records
15 for it.

16 MR. TRAYLOR: If you look at all of their records,
17 there's no -- the only 1967 record is to Beaty and -
18 -

19 THE COURT: Your objection is noted and your
20 arguments are noted.

21 MR. TRAYLOR: Thank you, Your Honor.

22 THE COURT: Very good. All right.

23 MS. MCVEY: And, Your Honor --

24 THE COURT: All right. Ms. McVey?

25 MS. MCVEY: -- and I -- I don't want to step on any

1 toes, but I need to make sure it's clear. They've
2 refused to give us any discovery, period. So we've
3 proven that they're in South Carolina at the -- the
4 places where our guy was working on our own.

5 We have a deposition scheduled tomorrow to get
6 further discovery, so my -- my hope is that the
7 Court is going to deny summary judgment based on
8 even the facts we've developed so far. Deny their
9 motion to dismiss for lack of personal jurisdiction,
10 and compel them to prepare a 30(b)(6) witness
11 tomorrow. That's what it's been noticed for.
12 They've -- they've known it's been noticed, and we
13 really to need get that deposition, because Welch
14 could be the first case up.

15 THE COURT: Exactly. That's why I'm growing
16 impatient about where we stand right now on this
17 thing. All right. All right. I will deny the
18 motion for summary judgment.

19 I will direct that the 30(b)(6) witness be
20 prepared sufficient to respond, all right, to time
21 periods prior to the records that they have been
22 able to, by other means, gather, and that the -- all
23 right -- and that -- all right -- Atlas Turner,
24 successor to Atlas Asbestos Company, also, be
25 compelled to produce records for the periods of time

1 that -- that they have been requested in discovery
2 for information prior to 1968.

3 MS. MCVEY: Thank you, Your Honor, and I -- I would
4 like to ask Mr. Traylor -- I fear that Atlas is not
5 going to show up tomorrow for their deposition.

6 THE COURT: I want to know right now what the
7 situation is on that?

8 MR. TRAYLOR: Your Honor, my client will not have a
9 witness available tomorrow or ever.

10 THE COURT: Well, all right, what do you plan to
11 about that? Were you --

12 MR. TRAYLOR: Well, I --

13 THE COURT: -- just not gonna prepare and hope that
14 you, all right, got summary judgment?

15 MR. TRAYLOR: Your Honor, I -- I'm just advising the
16 Court what the -- the client will -- will not --
17 will not have a witness available tomorrow.

18 MS. MCVEY: Will they have a witness available the
19 following week or the following month?

20 THE COURT: We --

21 MR. TRAYLOR: We don't --

22 THE COURT: -- this case is set for trial, Mr.
23 Traylor.

24 MR. TRAYLOR: I understand, Your Honor. This -- you
25 know, the -- the procedural history here was that we

1 filed a motion for a protective order early on. We
2 asked for a hearing and then, you know, we never got
3 a -- the -- the hearing was postponed, and then we
4 filed a -- a motion. The -- the deposition, if you
5 will, was withdrawn, and then it was refiled. We
6 stood on our motion for lack of personal
7 jurisdiction as part of the reason for not putting
8 up a witness, so we will not have a witness
9 available tomorrow, Your Honor. The client will not
10 present a --

11 THE COURT: When --

12 MR. TRAYLOR: -- witness.

13 THE COURT: -- when -- all right. The case is
14 scheduled for trial when Ms. McVey?

15 MS. MCVEY: Monday.

16 THE COURT: Monday?

17 MS. MCVEY: Yes, ma'am. It -- I'm just -
18 I -- what I'm -- I -- I would like Atlas to be
19 candid with this Court that I don't think they
20 intend to ever have a witness available, even if you
21 gave them more time, and so I just want to confirm
22 that.

23 MR. TRAYLOR: I -- I'm not in a position to confirm
24 or deny that. I'm in a position to say that I've
25 discussed with my client; my client advised us that

1 we will not have a witness tomorrow.

2 THE COURT: Well, I direct that you have a witness
3 Monday, all right, and, that that witness and you be
4 prepared to come here to the courthouse. I deny
5 your motion for summary judgment on the substantive
6 findings, as well as on jurisdictional findings, all
7 right?

8 And, Ms. McVey, prepare an order to that effect
9 as quickly as you can so that will be filed and in
10 the record.

11 All right. The consequence of not coming will
12 certainly mean that further action will be taken
13 with respect to, all right, their status in any
14 judgment entered against them.

15 MR. TRAYLOR: Your Honor, and -- and I, also, need
16 to advise the Court that we filed a motion to quash
17 the plaintiff's trial subpoena, which is set for
18 Monday.

19 MS. MCVEY: Just in brief response, of course, the
20 Jolly appellate decisions agree that Plaintiffs can,
21 of course, subpoena a trial defendant to trial to
22 appear. That's been affirmed in the Jolly case and
23 cert was denied on that issue in the Supreme Court.

24 THE COURT: Right.

25 MS. MCVEY: Your Honor, there's clear precedent they

1 would be in violation of a court order should they
2 decide not to attend.

3 THE COURT: Right. And I will deny the motion to
4 quash.

5 MR. TRAYLOR: And, Your Honor, we would respectfully
6 object to -- we believe that there's no personal
7 jurisdiction. It's fine. We understand, Your Honor,
8 for --

9 THE COURT: Right.

10 MR. TRAYLOR: -- and, also, Atlas is a -- a Canadian
11 company, and we don't believe they're subject to the
12 subpoena power of the Court.

13 THE COURT: All right. Well, the, all right, out-
14 of-country companies, all right, have been, required
15 if their product is put into the stream of commerce
16 and injures people in this country and in the State
17 of South Carolina, to respond to subpoenas, so I
18 don't agree with that analysis. And there are
19 several cases in the tort realm even issued by the
20 South Carolina Supreme Court that say that. So the
21 subpoena, all right, is not gonna be quashed, and
22 they're gonna be required to come and if they don't,
23 you need to be here, all right? And we will deal
24 with the consequences.

25 MS. MCVEY: Thank you, Your Honor.

1 MR. TRAYLOR: Thank you, Your Honor.

2 THE COURT: If the case, otherwise, resolves with
3 everyone else, all right, and we still have cases
4 ready to go to trial on Monday, you need to be here.

5 MR. TRAYLOR: I'm sorry?

6 THE COURT: If the other -- there are now --

7 MR. TRAYLOR: There are three other cases ahead of
8 us.

9 THE COURT: -- three other -- there's some other
10 cases.

11 MR. TRAYLOR: Right.

12 THE COURT: This one is the first one up; is it not?

13 MR. TRAYLOR: The last one up.

14 THE COURT: All right. Oh, this is Welch?

15 MR. TRAYLOR: Yes, ma'am.

16 THE COURT: Yeah. All right.

17 MS. MCVEY: And, Your Honor, I'll tell you that I
18 expect that this is gonna be the first -- the Welch
19 case.

20 THE COURT: That's what I expect, too.

21 MS. MCVEY: Right.

22 THE COURT: And so, all right, you need to be here
23 in all circumstances, unless you resolve the thing.

24 MR. TRAYLOR: Yes, Your Honor.

25 THE COURT: Okay. Welch -- all right, then -- all

1 right.

2 **SPIRAX SARCO'S MOTION FOR SUMMARY JUDGMENT**

3 THE COURT: Spirax Sarco's motion for summary
4 judgment. Ms. Techman?

5 MS. TECHMAN: Good morning, again, Your Honor.

6 Yesterday we did file a reply. I would like to hand
7 that up if that is acceptable to you.

8 THE COURT: Hang on for a minute. Just as in Welch?

9 MS. TECHMAN: Yes, Your Honor.

10 THE COURT: All right. Hang on a second. Okay. Go
11 ahead.

12 MS. TECHMAN: May I hand one to you, Your Honor? I
13 hate to make you dig.

14 THE COURT: I got it.

15 MS. TECHMAN: Okay.

16 THE COURT: I just want to use mine, because I've
17 got notes on it.

18 MS. TECHMAN: Okay. So you have the reply that was
19 filed yesterday?

20 THE COURT: (To the Law Clerk) You got it now?

21 MS. TECHMAN: May I give one to the --

22 THE COURT: Yeah. You can --

23 MS. TECHMAN: -- clerk?

24 THE COURT: -- give me that.

25 MS. TECHMAN: Thank you very much.

1 THE COURT: I got -- I've got it here some place.

2 MS. TECHMAN: I'm sure. I'm sure.

3 THE COURT: Okay. All right. Yeah. All right.

4 MS. TECHMAN: And I've -- I have handed one to Mr.
5 Holder and Ms. McVey, as well --

6 THE COURT: Very good.

7 MS. TECHMAN: -- there's one for them to share.

8 THE COURT: You may proceed.

9 MS. TECHMAN: Thank you very much, Your Honor.

10 Jennifer Techman for Spirax Sarco. I -- I know the
11 Court has read the papers and we are appreciative of
12 that; I will not read those to you. Your Honor,
13 I'll say that in this reply, we have pointed out
14 what is unique about this case. Mr. Welch, himself,
15 has affirmatively denied working on steam traps, and
16 he has affirmatively testified that he's never
17 worked in proximity to anyone else working on a
18 steam trap. Mr. Welch primarily, I believe, worked
19 with and around friction products as a mechanic.

20 The case as to Sarco concerns a --
21 appropriately a one-year time period when Mr. Welch
22 was at the Monsanto or the Chemstrand Plant in South
23 Carolina. And so the question before the Court is --
24 -- pardon me -- Was there an exposure attributable to
25 Sarco during his time at Monsanto? And, Your Honor,

1 there is no evidence of record that there was such
2 an exposure. We have the testimony of Mr. Welch,
3 himself, that he did not work on steam traps. He
4 did not work around anyone else working on steam
5 traps.

6 Plaintiffs direct the Court to some sales
7 records, and I'd like to briefly address those.
8 They indicate that things called "strainers" and
9 things called "drainers" were sold. Those are
10 stainless steel products. And unless the Court has
11 questions, I will yield the floor.

12 THE COURT: Okay. Very good. All right. Mr.
13 Holder?

14 MR. HOLDER: Thank you, Your Honor.

15 Jonathan Holder on behalf of the Welch family,
16 the plaintiffs. In response to Spirax Sarco's
17 motion for summary judgment, I would
18 -- again, this is another bystander exposure case.
19 He was a helper to instrumentation crew. This is
20 the same type of work that was testified about in
21 the Tommy Glenn trial where there would be a crew of
22 about four men; they're going along the line, doing
23 a lot of control valves and -- and those types of
24 things. He also stated that every day he was
25 working around all the other trades: electricians,

1 pipe fitters, insulators, welders.

2 Our position will be he would be inevitably
3 exposed to these steam traps being worked on by
4 being around these other workers on these lines
5 every day. But the product ID comes -- and, I
6 think, a very -- it was difficult to make this
7 product ID, based on their lack of records, but the
8 fact that we were able to, I thought was pretty
9 impressive. The -- and they don't have records
10 before the 1990s. They tell us that during the '60s
11 and '70s, 99 percent of their steam traps were sold
12 through distributors, so they wouldn't have direct
13 sales, anyway.

14 When we ask, "Okay. Well, what's the list of
15 distributors?" They couldn't give us the answer and
16 had no -- said there was no way they could find out
17 the distributors in the '70s and the '80s. One of
18 the sales records from the '90s -- or it was on a
19 spreadsheet, showed that the steam trap (as spoken)
20 that were sold to Monsanto in the '90s were from a
21 supplier, McJunkin; that is the name of the company.

22 We were able to locate through other documents
23 back from the '70s where there was a McJunkin
24 materials list where McJunkin was already supplying
25 Sarco strainers in the 1970s to the -- excuse me --

1 to the Monsanto Plant. We believe that this is, at
2 least, a scintilla of evidence that would show that
3 you've got the Sarco steam traps and strainers at
4 the premises at the time originally when Mr. Welch
5 is working as a helper for the instrumentation crew.
6 I know the time -- the timing is not absolutely
7 lined up, but we believe that it at least indicates
8 that through the evidence.

9 And, finally, we believe that that establishes
10 through the corporate testimony that there was a
11 possibility, more likely than not, that there was
12 some asbestos-containing parts associated with the
13 strainers that were provided.

14 THE COURT: Well, now, I understand what you say
15 with respect to Mr. Rattle (phonetic), the corporate
16 rep, about, all right, these traps and the fact that
17 some of them -- some of these steam traps did --
18 were asbestos-contained -- not the smaller, screwed
19 on ones that we talked about before. All right.
20 But what do you do with the fact that she contends
21 that Welch completely excluded Sarco from something
22 he worked on or worked around?

23 MR. HOLDER: I know that that is a -- a tough point,
24 and our only -- or our response to that is that he
25 couldn't have known what he was -- what he didn't

1 know, I guess. If you're down the line, even 20
2 feet, you may not -- and it's never your job to ever
3 work on a trap, you might not know that that's --
4 that there's a trap there being working on. And I
5 think that's kind of the -- the best that we can say
6 there is that --

7 THE COURT: Well --

8 MR. HOLDER: -- he just wouldn't have known, but
9 we're saying it's inevitable that he would have
10 known.

11 THE COURT: Well, that's not your best argument, all
12 right. Mr., all right, Holder, but here's what, all
13 right, Welch said.

14 And, again, it's -- Welch does not say, "I did
15 not ever work around Sarco stream -- steam traps. I
16 did not work around anyone who was working on," all
17 right, "the Sarco steam traps."

18 What Welch says is this, "Are you familiar with
19 what a steam trap is?"

20 "No."

21 All right. "As far as you know, you were never
22 in close proximity to anyone working on a steam
23 trap, fair?"

24 He says, "Fair."

25 It's all as far as he knows, all right. It's

1 not, "I never did."

2 "You cannot offer any testimony you were ever
3 exposed to asbestos from a steam trap?"

4 "No. I could not tell you."

5 That's what he says, right?

6 MR. HOLDER: Right. And he did -- right. And
7 that's what I meant why he didn't know what he
8 didn't know. And then we -- so we have to rely on
9 the places that he was working and the records --
10 what the records indicate. When we have a lack of
11 records we then have to show, "Well, okay. What's
12 the earliest we can find from the other records
13 showing that they were supplying to this plant," and
14 that's what we're doing.

15 THE COURT: And what's the earliest supply record
16 you have?

17 MR. HOLDER: We have that McJunkin material list in
18 the '70s, and he was there in '66 --

19 THE COURT: Okay.

20 MR. HOLDER: -- so . . .

21 THE COURT: Okay.

22 MR. HOLDER: On that, we will submit.

23 THE COURT: All right.

24 MR. HOLDER: Do you have any other specific
25 questions?

1 THE COURT: No. All right.

2 MR. HOLDER: Okay.

3 THE COURT: Any reply, Ms. Techman?

4 MS. TECHMAN: Your Honor, briefly. The McJunkin
5 record is at Plaintiff's opposition, Exhibit 7. I
6 have a copy of the -- if it's convenient for the
7 Court. You may not need it.

8 THE COURT: All right.

9 MS. TECHMAN: It specifically refers to "20 mesh S/S
10 screen, Sarco Type ST," that's a -- a stainless
11 steel strainer.

12 THE COURT: Right. But how about the testimony of
13 Rattle (phonetic)? That's your corporate rep.

14 MS. TECHMAN: Yes, Your Honor. Ms. -- my client has
15 records dating back to 1987, historical records.
16 They didn't have a need to have a litigation hold
17 prior to that time in connection with the
18 litigation. This Exhibit 6 is a result of my
19 client's search for what they do have in their sales
20 records. It's pretty darn small. I see we're all
21 wearing glasses. I think the earliest date here is
22 '92. From '92 onward, they did not have a gasket,
23 but they produced these in the spirit of cooperating
24 with discovery and full disclosure. There's no
25 indication that Mr. Welch worked in the '90s at a

1 place relevant to us, but we -- we're mindful of
2 your rulings, and we disclosed what we found, which
3 is in the '90s.

4 Separately, on the issue of distributors, the -
5 - my client has searched hundreds of current
6 distributors and thousands of past distributors.
7 Contacted them all, mindful of what this Court has
8 said about a party's obligation to investigate
9 records. Their products were, by and large, sold by
10 distributors, and they have investigated to look for
11 any records that some third party might have. They
12 have not located them, but I'm not surprised, and on
13 occasion, there is going to be a record like
14 something from McJunkin, who was a distributor.
15 This refers to a Sarco strainer.

16 THE COURT: Right. Okay. All right. This is a
17 close call. All right. So close that it might well
18 be that this is what gets presented, all right, in
19 the trial of this case. But I would grant a motion
20 for a directed verdict to close the plaintiff's
21 case, but I am going to say, all right, that summary
22 judgment is denied at this point. There is at least
23 a scintilla, and that's all they need to show right
24 now.

25 MS. TECHMAN: Thank you, Your Honor.

1 THE COURT: All right.

2 (Off the record from 10:41 a.m. until
3 11:56 a.m.)

4 THE COURT: This is "Melvin G. Welch against 3M,"
5 2022-CP-40-03834, all right. And I place upon the
6 record that I've just learned that Mr. Melvin Welch
7 has passed away. All right. And I had -- I have
8 previously directed, all right, that Atlas Asbestos,
9 all right, to produce its corporate representative
10 for a deposition this coming Monday per the subpoena
11 that had already been served on Atlas. I will
12 direct, renew my order that that be done even though
13 the case will be continued, all right, in order to
14 deal with the death of Mr. Welch and the appointment
15 of a personal representative and the amendment of
16 the pleadings.

17 The case will be placed on the June trial
18 roster, and, all right, the corporate representative
19 for Atlas will either appear per my order and
20 subpoena, all right, or appear within an agreed
21 period of time, not to exceed two weeks.

22 MR. MERIWETHER: Thank you, Your Honor. Might I
23 clarify, since I am fairly new to this fray, might I
24 clarify that when you are ordering them to appear,
25 so often, particularly for these international

1 depositions, appearances by Zoom. We're not talking
2 about having to march whatever corporate
3 representative we got -- if we got one. We're not
4 talking about marching them into the courthouse on
5 Monday. We're talking about putting them up on a
6 Zoom, either there or within two weeks --

7 THE COURT: No. We're --

8 MR. MERIWETHER: -- right?

9 THE COURT: -- talking about a personal appearance,
10 all right, somewhere, all right, it would generally
11 be Ms. McVey's office.

12 MS. MCVEY: But we'll work with you on the place,
13 but I would like to --

14 MR. MERIWETHER: Then --

15 MS. MCVEY: -- have it in person.

16 MR. MERIWETHER: -- that's why I needed to clarify.

17 MR. EARLY: Okay. I want to go to Canada.

18 MS. MCVEY: I -- let's go.

19 THE COURT: Okay.

20 MR. EARLY: Judge, we can -- just so we can set --
21 June is not, you know, our term. We'll have to work
22 out orders --

23 THE COURT: I just put in the back of the line.

24 MR. EARLY: That's fine. We're fine with that,
25 Judge.

1 MS. MCVEY: And -- and, Your Honor, I will -- just
2 so the record is clear, the Love, Davis, Lamb
3 (phonetic) cases are still on for trial on Monday, I
4 -- my hope is they will be resolved by tomorrow.

5 THE COURT: Okay. Very good.

6 MS. MCVEY: And I will let everybody know that.

7 THE COURT: Excellent. Excellent. Thank you so
8 much.

9 (Whereupon, the within hearing was
10 concluded at 12:01 p.m.)

11 (*This transcript may contain quoted material.
12 Such material is reproduced as read or quoted by the
13 speaker.)

CERTIFICATE

I, Amber Payne, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina on April 19th, 2023.

I do further certify that I am neither of kin, counsel,
nor interest to any party herein.

Amber Payne

Amber J. Payne, CVR

Date: July 3, 2023

Notary public for South Carolina

My commission expires August 12, 2029

STATE OF SOUTH CAROLINA)

County of Richland)

COURT OF COMMON PLEAS)

2022-CP-40-03834)

MELVIN G. WELCH and)

DONNA B. WELCH,)

PLAINTIFFS,)

vs.)

TRANSCRIPT OF RECORD)

3M COMPANY)

ACCEL PERFORMANCE GROUP, LLC,)

ADVANCE AUTO PARTS, INC.,)

AMERICAN HONDA MOTOR CO., INC.)

ATLAS ASBESTOS CO,)

ATLAS TURNER, INC.,)

AUTOZONE, INC.,)

BAHNSON, INC.,)

BEATY INVESTMENTS, INC.,)

BELDEN INC.,)

BELDEN WIRE & CABLE COMPANY,)

BRIDGESTONE AMERICAS TIRE,)

OPERATIONS, LLC,)

CAROLINA TOOL COMPANY,)

COPELAND CORPORATION, LLC,)

COVIL CORPORATION,)

DANIEL INTERNATIONAL)

CORPORATION, DAVIS MECHANICAL)

CONTRACTORS, INC.,)

DCO, LLC, EATON CORPORATION)

ELLINGTON INSULATION COMPANY,)

INC., FISHER CONTROLS)

INTERNATIONAL, LLC,)

FLUOR CONSTRUCTORS,)

INTERNATIONAL,)

FLUOR CONSTRUCTORS)

INTERNATIONAL, INC.,)

FLUOR DANIEL SERVICES)

CORPORATION, FLUOR)

ENTERPRISES, INC.,)

FORD MOTOR COMPANY,)

GENERAL ELECTRIC COMPANY,)

GENERAL PARTS, INC.,)

GENUINE PARTS COMPANY,)

GOODRICH CORPORATION,)

THE GOODYEAR TIRE & RUBBER)

COMPANY, GRAYBAR ELECTRIC)

COMPANY, INC., HEAT & FROST)

EXHIBIT

9

INSULATION COMPANY, INC.,)
HENNESSY INDUSTRIES, LLC,)
HONEYWELL INTERNATIONAL, INC.)
INDUSTRIAL HOLDINGS)
CORPORATION JOHNSON CONTROLS,)
INC., MERITOR, INC.,)
METROPOLITAN LIFE INSURANCE)
COMPANY, MORSE TEC, LLC,)
MW CUSTOM PAPERS, LLC,)
OCCIDENTAL CHEMICAL)
CORPORATION, O'REILLY AUTO)
ENTERPRISES, LLC,)
O'REILLY AUTOMOTIVE STORES,)
INC., PARAMOUNT GLOBAL,)
PFIZER, INC., PHARMACIA, LLC,)
PIEDMONT INSULATION, INC.,)
PNEUMO ABEX, LLC,)
REDCO CORPORATION, RILEY)
POWER, INC., ROCKWELL)
AUTOMATION, INC.,)
RUST ENGINEERING &)
CONSTRUCTION, INC.,)
RUST INTERNATIONAL, INC.,)
SAINT-GOBAIN ABRASIVES, INC.,)
SCHNEIDER ELECTRIC USA, INC.,)
SOUTHERN INSULATION, INC.,)
SPIRAX SARCO, INC.,)
UNION CARBIDE CORPORATION,)
VISTRA INTERMEDIATE COMPANY,)
LLC,)
WESTROCK MWV, LLC,)
WIND UP, LTD.,)
ZF ACTIVE SAFETY US, INC,)
DEFENDANTS,)

May 4, 2023
Columbia, South Carolina

BEFORE:

THE HONORABLE JEAN TOAL, JUDGE.

APPEARANCES:

THEILE MCVEY, ESQ.
Attorney for the Plaintiffs

DAVID TRAYLOR, ESQ.
WILLIAM WOOD, ESQ.
ROBERT MERIWETHER, ESQ.
Attorneys for the Defendants Atlas Turner

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 THE COURT: This morning we have the matter of Melvin
2 G. Welch and Donna Welch against 3M. This is
3 2022-CP-40-03834.

4 All right. This morning is a status conference on
5 the status of defendant Atlas Turner, Inc., and certain
6 hearings were held with respect to motions for summary
7 judgment with respect to Atlas and issues regarding its
8 cooperation with the procedure and its presence in this
9 case.

10 Mr. Meriwether and Mr. Traylor are here on behalf of
11 Atlas, and Ms. McVey is here on behalf of the Welch
12 family. So Ms. McVey, I'm going to give it to you.

13 MS. MCVEY: Thank you, Your Honor. I'm going to talk
14 loud, but if you need me to talk louder because of that
15 noise, let me know.

16 Judge, you accurately recited the history. Just by
17 way of further background, you recall that you heard both
18 Atlas' motion to dismiss for lack of personal jurisdiction
19 and a motion for summary judgment, as well as our motion
20 to compel.

21 You denied both of Atlas' motions and granted our
22 motion to compel. What Atlas had decided was that they
23 did not believe there was personal jurisdiction despite
24 sales of asbestos products in South Carolina. You -- so
25 they refused to participate in discovery.

1 After you denied their motion to dismiss and motion
2 for summary judgment and granted our motion to compel, you
3 ordered them to produce a witness for a 30(b)(6)
4 deposition. That notice had been pending for some time on
5 the Monday following that trial.

6 We offered to even give them an additional two weeks
7 to produce a witness, if they were going to produce that
8 witness. Mr. -- I've been communicating with both
9 Mr. Traylor and Mr. Meriwether, and let me be clear that I
10 do not believe that Atlas' failure to produce a witness is
11 in any way to do with these lawyers.

12 THE COURT: I agree with that and so find on the
13 record. Mr. Traylor and Mr. Meriwether have -- their firm
14 has been engaged to represent this client, and they have
15 deciduously tried to communicate with them about this
16 matter and their presence.

17 MS. MCVEY: But, Your Honor, my understanding -- and
18 I'm sure Mr. Traylor and Mr. Meriwether can clarify is
19 that Atlas is going to refuse to participate in any
20 discovery either deposition or written discovery, and Your
21 Honor, they are going to and have defied your order.

22 Parties to litigation just cannot do that. It's not
23 the way our system is set up, and you can imagine the
24 chaos that would ensue if every defendant behaved like
25 Atlas is currently behaving.

1 Your Honor, at this point because of the multiple
2 violations of your order, we would ask that you hold them
3 in contempt, Atlas, of course, not these lawyers. I would
4 like to submit proposed orders to you outlining what we
5 would like. That may include striking an answer. It may
6 include striking an answer and appointing a receiver.

7 We would like to figure out what assets they have.
8 We would like to a damages hearing. I want to be able to
9 brief it to you and make sure we are asking for
10 appropriate things, but the purpose of the status
11 conference today, of course, is to really figure out are
12 they going to comply with your order. I don't think they
13 are. They certainly have not yet.

14 They are already in violation of your order, Your
15 Honor. So we would ask that a contempt finding be made
16 against Atlas Asbestos Corporation and Atlas Turner for
17 their refusal to engage in this lawsuit.

18 THE COURT: All right. Thank you, Ms. McVey.

19 Mr. Traylor? Mr. Traylor.

20 MR. TRAYLOR: Yes.

21 THE COURT: Both you and I have hearing deficits and
22 both wear hearing aids. I am well aware of that, so be
23 very sure that we are communicating because my sympathies
24 lie completely with you. We both have the same issues, so
25 be sure that we're all communicating such that you have

1 complete information about what's being said.

2 MR. TRAYLOR: Thank you, Your Honor. David Traylor
3 on behalf of Atlas Turner, Inc. on behalf of itself and
4 Atlas Asbestos Company.

5 Your Honor, I appreciate your sympathy with my
6 hearing aids. I'm still getting used to them. It's like
7 an echo for me. I don't know whether I'm talking too loud
8 or talking too softly.

9 THE COURT: Well, if it's any comfort to you, I --
10 because of too much penicillin as a child with head
11 infections which attacked the 8th cranial nerve have been
12 wearing hearing aids since my 30s, and I am now 79.

13 I am deeply sympathetic, but the technology has
14 gotten way better than it was when I first started wearing
15 hearing aids when it was just one piece of chewing gum in
16 one ear which didn't do much of anything except amplifying
17 everything, but you just be sure that everything goes
18 according to your understanding in this hearing and have
19 my complete cooperation in that.

20 MR. TRAYLOR: Thank you, Your Honor.

21 I want to, I guess, start by saying, you know, I am
22 always willing to communicate with the client to see if --
23 you know, what they can do.

24 As far as -- I need to state that they do feel
25 strongly about their jurisdictional motion, and also they

1 are a corporation in Quebec, Canada. They have to balance
2 the law in Canada in Quebec and the American discovery
3 rules and that and I understand. I would ask at least the
4 Court consider the fact that they are subject to the
5 Quebec Business Concerns Records Act.

6 As far as the motions and what the plaintiffs end up
7 filing, I just -- I'm not sure. And maybe I didn't hear
8 it properly, but I don't remember that the plaintiffs
9 filed a motion to compel. I'll just cite that for the
10 record, and you know, what I can say is that I am willing
11 to continue to communicate with the client.

12 I would like opportunities to respond or at least
13 have written motions at some point that we can respond to,
14 and I would also make one point. I just -- from a point
15 of personal request or note, I guess on the record -- or I
16 hate to put it on the record, but I do have a vacation
17 where I'm supposed to take my wife to Florida to visit her
18 mother who is 97 years old for Mothers Day. I'm leaving
19 on May 12th and coming back on the 19th.

20 I would respectfully request that, you know, before
21 any motions are filed that I be given an opportunity for
22 that. I just -- and I understand -- you know, I'll have
23 to deal with what I have to deal either way. Other than
24 that, I think I'll just rely on the prior filings that we
25 have made, Your Honor.

1 THE COURT: All right. Well, let me first say this.
2 This case is scheduled for trial when, Ms. McVey?

3 MS. MCVEY: In August, the August block.

4 THE COURT: This case is scheduled for trial in
5 August, and the deadlines we're hitting now are the
6 ordinary deadlines pursuant to Judge Gary Hill's old
7 order.

8 We filed asbestos litigation -- as you are very well
9 aware because you're experienced in this area for years.
10 I have ruled that their jurisdictional argument does not
11 prevail, and therefore, they are within the jurisdiction
12 of this court.

13 They have had a long business history of selling
14 asbestos products in this country that have found their
15 way into every state of the union. This is not an
16 inexperienced company at all. It's a very experienced
17 company that depends heavily on the American market for
18 the sale of their products.

19 I can't conceive that they have been permitted in
20 every state of the union that had very similar
21 jurisdictional rules to the rules of South Carolina to
22 simply say we're not going to cooperate with your court
23 process because we're a Quebec corporation. That simply
24 is not an adequate excuse for their failure to cooperate.

25 They haven't filed anything other than their

1 jurisdictional motion, but the discovery issues have been
2 ongoing. They have been noticed for a good long time that
3 the deposition of their corporate representative needed to
4 be taken.

5 They can't just not respond to that and say hey
6 because I've got a motion pending about jurisdiction, I'm
7 not going to cooperate with discovery. That's not how our
8 system works, and they have not cooperated in any way with
9 discovery.

10 So now we come up to a point where we move in the
11 process of our deadlines pretrial for trying these types
12 of complicated cases to a point where their corporate rep,
13 they have refused to tender their corporate representative
14 for a deposition. That can't -- I can't allow that to
15 happen.

16 This is a pending case. It hasn't been dismissed as
17 to them. Their jurisdictional matter has been determined,
18 and they must cooperate. It's just that simple.

19 Now, certainly, I will give you protection for
20 May 12th through the 19th, but I will simply say to you it
21 comes very late in the process to suddenly interpose that
22 on Atlas' behalf when they have asked you to convey to me
23 today that they are not going to cooperate. That's what I
24 hear you saying.

25 MR. TRAYLOR: Your Honor --

1 THE COURT: And, you know, you've gotten
2 Mr. Meriwether as your co-counsel. You're fully able to
3 handle these matters, so that's the dilemma I find myself
4 in, Mr. Traylor. If you have any response to that, I
5 would love to hear it.

6 MR. TRAYLOR: Well, I would at least -- I would
7 appreciate the opportunity, and I believe we would be
8 entitled to make -- if the plaintiffs file various
9 motions, we would be entitled to have appropriate time to
10 respond, you know.

11 THE COURT: Which motion are you talking about?

12 MR. TRAYLOR: Well, I guess it really just depends on
13 what motions they file.

14 THE COURT: Well, right now what they've asked me to
15 do is to hold you all in contempt because I ordered the
16 taking of the corporate reps deposition the Monday after
17 we had that hearing and they did not comply with that.

18 In fact, I was sent word that they were not going to
19 comply with that; that they were not going to tender a
20 corporate rep, not then or at any other time that was
21 suggested because Ms. McVey suggested in open court it
22 could be Monday or it could be at some other time that was
23 mutually agreeable.

24 As what I understand she is saying today is that you
25 all are not authorized -- it's not your fault, but you

1 were not authorized by the client to agree to any date
2 because they take the position they are not subject to the
3 jurisdiction of this court, but they are subject to the
4 jurisdiction of this court. I've made that determination.

5 So now we're dealing first with what to do with their
6 failure and their affirmative refusal to tender the
7 corporate representative, and I'm asked today to find that
8 that conduct is in contempt of my order, which it
9 certainly is, and Ms. McVey says upon the finding of
10 contempt, she will then file a motion for sanctions which
11 is yet to be filed. But she was giving you a preview for
12 what she would intend to put in a motion for sanctions,
13 and that would include such things as summary judgment.
14 That would also include such things as striking the
15 answer. That would also include such things as appointing
16 a state receiver.

17 I have granted that kind of relief in a lot of
18 different cases, some involving defendants who are
19 incorporated in South Carolina and some involving
20 defendants who are not incorporated in South Carolina but
21 who have done business in South Carolina, put into the
22 stream of commerce materials that are used in South
23 Carolina. And on that basis, we have jurisdiction here.
24 That's what I've determined.

25 Now, you're not -- you do not need to respond today

1 to any of that. She was just out of courtesy giving the
2 Court and you a preview of what she would intend to put in
3 what will be a filed motion for sanctions.

4 When that motion is filed, she will --I will then
5 hopefully receive a response in the normal time from you,
6 and then I'll schedule it for a hearing.

7 I want to consider that at the earliest possible time
8 because this case is scheduled for August, and I want to
9 get these things ironed out one way or another. Even if
10 it means appointing a receiver, but that's to be
11 determined. That's a long way of saying that today you do
12 not have to respond because she has not made the motion
13 for sanctions.

14 Today she has only said, "Judge, we have a situation
15 where you've ordered something. They have now
16 affirmatively defied that order, and I am asking that they
17 be found in contempt of that order with a motion for
18 sanction to follow."

19 MR. TRAYLOR: Judge, I guess the only thing I would
20 ask the Court to at least consider -- I know in the Lyons
21 case where Judge Anderson dealt with a similar matter --

22 THE COURT: Give me the citation for that please,
23 sir.

24 MR. TRAYLOR: Yes, Your Honor. It's 119 F.R.D. 384
25 1988, and Judge Anderson at least -- it's noted that

1 consideration of foreign law should be considered in
2 dealing with sanctions.

3 THE COURT: Well, there's no question for what
4 foreign law could be considered. Thus far, I have not
5 been supplied with anything that tells me -- I am looking
6 at all of your materials that have been filed that gives
7 me any information about the Lyons case or anything else
8 to do with all you say in here is they're a Quebec
9 corporation. They take the position that Quebec law
10 controls, and they don't have to follow American law or
11 South Carolina law.

12 I have not been cited with anything out of Quebec law
13 or South Carolina law that tells me what that's based on.
14 Judge Anderson could only have said that foreign law could
15 be considered, I'm sure, but that would be on the basis of
16 the citation of specific law to control the issue. I've
17 not been provided with anything like that in this case.

18 MR. TRAYLOR: Well, Your Honor, we filed a motion for
19 a protective order.

20 THE COURT: I've got all of that right here.

21 MR. TRAYLOR: And it includes all of the case law
22 from Canada, and it includes a reference to the Lyons case
23 and other similar cases.

24 THE COURT: Right.

25 MR. TRAYLOR: But we did -- you know, I would

1 respectfully note that we did include that in our motion
2 for protective order.

3 THE COURT: I note that but, you know, this motion
4 for a protective order is -- I mean, what -- you've got a
5 motion to dismiss and a motion for summary judgment, and I
6 suppose those pieces of law if they're applicable at all
7 would be applicable to those motions.

8 But I don't understand how a protective order is
9 supposed to -- by citing Quebec law is supposed to render
10 the jurisdiction of South Carolina with respect to
11 products put in the stream of commerce to South Carolina
12 by your client and used in South Carolina, allegedly, to
13 the injury of a party in this lawsuit, I don't understand
14 how Quebec law affects the jurisdiction of this court over
15 Atlas to consider that matter.

16 MR. TRAYLOR: All I would say, Judge, is you said we
17 didn't cite to you any cases --

18 THE COURT: You cited to cases that talk about what
19 their status is, but you don't cite to any cases that say
20 because of that Quebec law South Carolina does not have
21 jurisdiction over this corporation for products put into
22 the stream of commerce for the State of South Carolina and
23 used in South Carolina to the injury of the party.

24 I see this stuff. I read all this stuff. I've got
25 notes all over this, but nothing in that law pertains to

1 what we're talking about which is that -- it's simply
2 argued if you're a Quebec corporation, you're not subject
3 to any law in South Carolina, pretends that what happens
4 when the product leaves your hands is not something that
5 subjects you to any jurisdiction in the state. We know
6 that's not true. That's completely contrary to our
7 products liability law around the country.

8 MR. TRAYLOR: Your Honor, the only thing I can say in
9 response to that is, you know, we included the citations
10 from Canada to support that.

11 THE COURT: I agree and if I said to the contrary,
12 then I misstated. I accept that, but looking at that law,
13 it does not address what happens when a product is sold to
14 South Carolina, shipped to South Carolina and used in
15 South Carolina to the injury of a party.

16 MR. TRAYLOR: Well, I would just rely on the
17 briefs --

18 THE COURT: All right, sir.

19 MR. TRAYLOR: -- on that.

20 THE COURT: All right. Before I leave then, is that
21 all you want to offer at this time?

22 MR. TRAYLOR: At this point that is, Your Honor.

23 THE COURT: All right. Mr. Meriwether, anything from
24 you at this point?

25 MR. MERRIWEATHER: No, Your Honor. Thank you for the

1 opportunity.

2 THE COURT: All right. Ms. McVey, anything in reply?

3 MS. MCVEY: Your Honor, just very briefly, I do want
4 to address the Lyons case because it stands for the exact
5 opposite proposition of what Atlas is saying. Judge
6 Anderson, you know, your esteemed colleague in the federal
7 bench, wrote in 1998 when addressing the Quebec Records
8 Act, and I quote, "A United States Court has the power to
9 order any party within its jurisdiction to testify or
10 produce documents regardless of a foreign sovereign's
11 views to the contrary."

12 Of course, that makes perfect sense. You have denied
13 their motion for a protective order. You have found they
14 are, in fact, subject to personal jurisdiction in this
15 case they exposed -- or potentially exclude evidence, and
16 they exposed Mr. Welch to their asbestos-containing
17 product, asbestos insulation product.

18 Judge, they cannot just blow off this Court's order,
19 and that's exactly what they're doing. They should be
20 found in contempt because you have jurisdiction. You have
21 ordered them to comply with discovery, and they have
22 absolutely refused to do it. That is by definition
23 contempt.

24 And so, Your Honor, we would ask for a finding of
25 contempt today and allow me -- I can make it this week a

1 motion for sanctions. It's Thursday. Next week, a motion
2 for sanctions and outline what we would be asking for in
3 that motion.

4 THE COURT: All right. Anything further?

5 MR. TRAYLOR: Nothing, Your Honor.

6 THE COURT: All right. I find that Atlas Turner,
7 Inc., Defendant in the Welch vs. 3M and many others
8 lawsuit is in contempt of my order upon the hearing of
9 this matter of Atlas to provide its corporate
10 representative for deposition.

11 What I understand the position to be of defendant is
12 that they do not have to respond to South Carolina courts
13 with respect to this matter because we have no
14 jurisdiction over them.

15 The averments of the complaint are that Atlas Turner
16 placed into the stream of commerce asbestos insulation and
17 that asbestos insulation was used in South Carolina and
18 that the plaintiffs' clients were injured by that product.

19 On that basis, I denied the motion for protection and
20 the motion to dismiss filed by Atlas and required that
21 their corporate representative be subject to a deposition.

22 I take from what Mr. Traylor has indicated in his
23 presentation on behalf of Atlas that Atlas takes the
24 position that they are not required to respond to any
25 orders of this court because of their status as a Quebec

1 corporation.

2 To the extent that the Lyons case, a 1988 District
3 Court Judge Joe Anderson which involved a Quebec
4 corporation, to the extent that defendant cites that case,
5 that case specifically stands for the proposition that
6 notwithstanding the Quebec Records Act, defendants in
7 lawsuits upon -- in South Carolina, be they a Quebec
8 corporation, are required to respond to discovery and
9 records request from South Carolina courts. Therefore, I
10 will await Ms. McVey's further filings with respect to a
11 motion for sanctions with regard to the contemptuous
12 conduct of Atlas.

13 Anything further?

14 MS. MCVEY: No, ma'am, Your Honor, thank you.

15 THE COURT: Ms. McVey, if you feel the need to put
16 anything further by way of any proposed order on the
17 contempt finding, please do so at the earliest possible
18 time.

19 Mr. Traylor, when you receive that communication, you
20 will have three business days to respond, and then I will
21 deal with that motion and that order.

22 Ms. McVey will then file -- or she may file -- the
23 order has been made now. It simply may be further
24 elaborated in a written order for everybody's convenience
25 including defendants, as well as plaintiffs.

1 Ms. McVey will file the motion for sanctions, and you
2 will have the normal number of days to respond to the
3 motion that she files.

4 I will protect you from any appearance on the matter
5 from May 12th through the 19th and will otherwise select a
6 date for a hearing on that motion at the earliest possible
7 time.

8 Anything further?

9 MS. MCVEY: Not from the plaintiff, Your Honor.
10 Thank you.

11 THE COURT: Thank you so much. I believe that
12 concludes it.

13 (Whereupon, the proceedings were concluded.)
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CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of Common Pleas for
Richland County, South Carolina, on the 4th day of May,
2023.

May 4, 2023

Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
MELVIN G. WELCH and DONNA B. WELCH,	)	C/A NO. 2022-CP-40-03834
	)	
Plaintiffs,	)	<i>In Re:</i>
	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
3M COMPANY, et al.	)	
	)	
Defendants.	)	

EXHIBIT

10

ORDER HOLDING ATLAS TURNER, INC. IN CONTEMPT

Atlas Turner, Inc. ("Atlas") is a defendant in the above referenced matter. On April 19, 2023, this Court, in open court ordered Atlas to appear for a deposition so that this matter could be prepared for trial.

Atlas failed to produce a witness as ordered by the Court. Atlas has also refused to identify a witness or a date on which it will produce a witness. Moreover, Atlas has wholly failed to produce any documents as requested by the 30(b)(6) notice properly served on it.

On May 4, 2023, in an attempt to resolve Atlas' intransigence, this Court held a status conference. Counsel for Atlas and counsel for Plaintiff were present. This Court attempted to ascertain Atlas' positions on these matters and whether Atlas would participate in discovery or otherwise comply with this Court's orders. After a comprehensive discussion it was clear to this Court that Atlas does not intend to participate in this matter and that this Court's orders on discovery will continue to be ignored.

During the status conference, Plaintiffs' counsel requested that this Court hold Atlas in contempt of Court. In response, Atlas relied in part on the arguments set forth in its prior filings.

LAW AND ANALYSIS

A determination of contempt resides in the sound discretion of the trial judge. *Hook v. South Carolina Dept. of Health and Environmental Control*, 439 S.C. 52 (Ct. App. March 15, 2023). "Courts have no more important function to perform in the administration of justice than to ensure their orders are obeyed." *Id.* The power of a court to punish for contempt "is essential to the preservation of order in judicial proceedings and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice." *Miller v. Miller*, 375 S.C. 443 (Ct. App. 2007).

Here there is no dispute that Atlas has violated this Court's orders. Moreover, Atlas has indicated that it does not intend to comply with those orders in the future.

In light of Atlas' position, this Court has no choice but to find Atlas in contempt of court. In light of this finding, the Court directs Plaintiffs' counsel, not later than Monday, May 22, 2023, to submit briefing to this Court identifying the requested sanction this Court should impose on Atlas and for any other relief requested.

IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: Melvin G Welch , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2022CP4003834

Type: Order/Other

So Ordered

Jean H. Toal

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP4003834

Melvin G Welch et al
PLAINTIFF(S)

3M Company et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Atlas Turner Inc.'s 5/22/2023 Motion to Reconsider and Vacate the Court's Contempt Order of 5/11/2023 is DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/16/2023 .

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Prestolite Performance Llc
Hayes Performance Brakes
Napa
Enstar Holdings Us Inc
Reinz Wisconsin Gasket Llc
Dco Llc

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

EXHIBIT

11

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Melvin G Welch , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2022CP4003834

Type: Order/Electronic Form 4

So Ordered

Jean H. Toal

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

FOR THE FIFTH JUDICIAL CIRCUIT

MELVIN G. WELCH and
DONNA B. WELCH

C/A NO. 2022-CP-40-03834

Plaintiffs,

v.

ORDER STRIKING ATLAS TURNER'S
ANSWER3M COMPANY
f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY, et al.

Defendants.

EXHIBIT

12

BACKGROUND

On May 11, 2023, this Court found Atlas Turner, Inc. f/k/a Atlas Asbestos Company ("Atlas") to be in contempt of Court. The Court based its contempt order on Atlas' flat refusal to comply with this Court's orders to produce documents, a witness or otherwise participate in discovery. As part of this Court's order on contempt, the Court ordered Plaintiffs to brief the issue of the sanction requested.

On May 11, 2023, Plaintiffs filed their brief requesting that this Court strike Atlas' pleadings. Atlas' response was filed on May 15, 2023 and Plaintiffs' reply was filed on May 18, 2023. The Court reviewed and considered all of the briefing and evidence of the parties.

As set forth by this Court in its contempt order, Atlas failed to produce a witness as ordered by the Court. Atlas has also refused to identify a witness or a date on which it will

produce a witness. Moreover, Atlas has wholly failed to produce any documents as requested by the 30(b)(6) notice properly served on it.

On May 4, 2023, in an attempt to resolve Atlas' intransigence, this Court held a status conference. Counsel for Atlas and counsel for Plaintiff were present. This Court attempted to ascertain Atlas' positions on these matters and whether Atlas would participate in discovery or otherwise comply with this Court's orders. After a robust discussion with the parties, it was clear to this Court that Atlas does not intend to participate in this matter and that this Court's orders on discovery will continue to be ignored. In fact, on June 15, 2023, Counsel for Atlas confirmed that Atlas will not produce a witness or participate in any discovery.

LAW AND ANALYSIS

"The rights of discovery provided by the Rules give the trial lawyer the means to be prepared for trial." *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987). "Where these rights are not accorded, prejudice must be presumed and, unless the party who has failed to submit to discovery can show a lack of prejudice," sanctions must be imposed. *Id.* Without adequate sanctions, discovery procedures would be ineffectual. *Id.* As a result, over leniency must be avoided. *Id.* "If a party fails to obey an order or provide or permit discovery, the trial court may impose sanctions such as striking pleadings, dismissing the action, or rendering a default judgment." *Griffin Grading & Clearing, Inc. v. Tire Serv. Equipment Mfg. Co., Inc.*, 334 S.C. 193, 198, 511 S.E.2d 716, 718 (Ct. App. 1999).

"In determining the appropriateness of a sanction, the court should consider such factors as the precise nature of the discovery and the discovery posture of the case, willfulness, and degree of prejudice." *Id.* at 199, 511 S.E.2d at 719. In *Samples v. Mitchell*, 329 S.C. 105, 495 S.E.2d 213 (Ct. App. 1997), the South Carolina Court of Appeals stated "[t]he entire thrust of the

discovery rules involves full and fair disclosure, to prevent a trial from becoming a guessing game or one of surprise for either party.” *Id.* “Discovery sanctions are imposed to penalize those whose conduct may be deemed to warrant such a sanction, and to deter those who might be tempted to such conduct in the absence of such a deterrent.” *Creighton v. Coligny Plaza Ltd. P’ship*, 334 S.C. 96, 123, 512 S.E.2d 510, 524 (Ct. App. 1998).

Atlas has failed to produce a witness. Indeed, it has articulated its intent not to over and over again. Atlas has refused to participate in meaningful discovery. It has refused to produce documents. Given this intentional and willful refusal to participate in discovery, the court hereby strikes Atlas’ pleadings.

AND IT IS SO ORDERED.

[JUDGE’S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: Melvin G Welch , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2022CP4003834

Type: Order/Other

So Ordered

Jean H. Toal

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP4003834

Melvin G Welch et al
PLAINTIFF(S)

3M Company et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Atlas Turner Inc.'s Motion to Reconsider the June 20, 2023 Order Striking Atlas Turner's Answer is DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/28/2023 .

Bendix Corporation
Allied Signal Inc.
Carborundum Company
Durez Corporation
Grand Auto Supply
Kragen Auto Parts
Csk Auto Inc.
Bridgestone Firestone North American Tire Llc
Viacom Inc.
Westinghouse Electric Corporation
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Cbs Corporation
Monsanto Company
Pharmacia Corporation
Abex Corporation
Continental Insurance Company
Federal Insurance Company
Enstar (Us) Inc.
Maryland Casualty Company
Zurich American Insurance Co
Peter D Protopapas Receiver
Atlas Asbestos Company Ltd
Atlas Turner Inc.
Melvin G Welch Estate
Donna B Welch Prs
Crane Co
Riley Stoker Corporation
Db Riley Inc.
Babcock Borsig Power Inc.
Victor Gasket Manufacturing Company
Norton Company
Square D Company
Westvac

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

EXHIBIT

13

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Melvin G Welch , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2022CP4003834

Type: Order/Electronic Form 4

So Ordered

Jean H. Toal

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
MELVIN G. WELCH and DONNA B. WELCH,	)	C/A NO. 2022-CP-40-03834
	)	
Plaintiffs,	)	<i>In Re:</i>
	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
3M COMPANY, et al.	)	<u>PLAINTIFFS' MOTION FOR SANCTIONS</u>
	)	<u>AND FOR THE APPOINTMENT OF A</u>
Defendants.	)	<u>RECEIVER</u>

On May 11, 2023, this Court found Atlas Asbestos Company, Ltd. ("Atlas") in contempt of court for its failure to comply with this Court's orders. This Court ordered Plaintiffs to brief the issue of the appropriate sanctions. In compliance with this Court's order, Plaintiffs submit this motion and would respectfully show the court as follows:

BACKGROUND

As this Court has already seen, Atlas supplied asbestos containing insulation to insulation contractors throughout the southeastern United States, including, without limitations, to insulation contractors in North and South Carolina. It was based on these facts and the Plaintiffs' exposure to insulation from certain contractors to which Atlas supplied, including Covil Corporation and Beaty Investments, f/k/a Guy M. Beaty among others. Plaintiffs served discovery on Atlas in the form of interrogatories and deposition notices with document requests. *See* Third Amended Notice of Deposition of Atlas attached hereto as Exhibit A. Despite having specifically sold to contractors in South Carolina, Atlas demurred and alleged that this court had no personal jurisdiction over it because it is a Canadian company.



After briefing and a hearing, this Court overruled Atlas' objections and ordered it to produce a fully prepared witness and documents. Atlas refused. This Court held a status conference to consult with counsel for Atlas. At the hearing it was clear that Atlas had no intention of complying with this Court's orders, producing a witness or otherwise participating in this litigation.

LAW AND ARGUMENT

A. Motion to Strike

A trial court has the "option to completely strike [a defendant's] pleadings in [a] matter as a sanction for failure to cooperate in discovery." *Scott v. Greenville Housing Authority*, 353 S.C. 639 (Ct. App. 2003)(citing Rule 37(b)(2)(C)). Here, Atlas has wholly failed to obey this court's orders ordering it to participate in discovery. Moreover, Atlas has demonstrated that it does not intend to participate in this matter in any meaningful way.

Therefore, Plaintiffs request that this court enter an order striking Atlas' pleading.

B. Motion to Appoint a Receiver

Assuming that this Court determines that the appropriate sanction for Atlas' contempt is the striking of Atlas' answer, Plaintiffs next move this court for an order appointing a receiver over Atlas. This motion is made pursuant to S.C. Code §§ 15-65-10(4) and (5).

Atlas is a company organized and existing under the laws of Canada, with its principal place of business in Canada. At all times relevant, Atlas was involved in all elements of the global asbestos industry, but in particular, mining many thousands of tons of raw asbestos fiber in Canada and then selling it to the most dominant manufacturers of asbestos-containing products in the United States—substantial quantities of which were used in South Carolina. Atlas also concocted a scheme to avoid its legal responsibilities to persons injured from using those end products. Rather

than defending its conduct in front of juries in the United States, Atlas decided to simply contest personal jurisdiction and, where it loses that battle, the simply refuses to participate in cases in which they are a named defendant. Although Atlas stiff-arms its creditors in the United States—namely, workers exposed to asbestos and asbestos containing products manufactured and/or sold by Atlas—and absconded to Canada, certain of its insurance assets appear to remain. There is no evidence which suggests that Atlas currently operates in any way to do anything other than to defend and indemnify lawsuits, thus, making Atlas nothing more than an insurance company. The appointment of a receiver to marshal Atlas’s insurance assets and satisfy claims is therefore the appropriate remedy.

LAW AND ARGUMENT

South Carolina Code § 15-65-10(4) states that:

A receiver may be appointed by a judge of the circuit court, either in or out of court:
 ... (4) When a corporation has been dissolved, is insolvent or in imminent danger of insolvency or has forfeited its corporate rights, and, in like cases, of the property within this State of foreign corporations

It is undisputed that Atlas has intentionally fled the United States to avoid its liabilities and obligations to its creditors and to the extent it ever properly qualified itself to do business in South Carolina has forfeited those rights. *See, e.g.*, Black’s Law Dictionary (11th ed. 2019), *forfeiture* (“loss of a right, privilege, or property because of a crime, breach of obligation, or neglect of duty”) Thus, appointment of a receiver over Atlas and its affiliates is appropriate under subsection (4).

South Carolina Code §15-65-10(5), moreover, states that:

A receiver may be appointed by a judge of the circuit court, either in or out of court:
 ... (5) In such other cases as are provided by law or may be in accordance with the existing practice

Section 15-65-10(5) reflects an “old practice” of equity and “important principle of law” to correct injustice, particularly “when a debtor is trying to defeat his creditors by an act or course of conduct

which indicates moral fraud—a conscious intent to defeat, delay, or hinder his creditors in the collection of their debts.” *Va.-Carolina Chem. Co. v. Hunter*, 66 S.E. 177, 179 (S.C. 1909). Thus, if a business “disposes of large resources” but “leaves . . . debts unpaid”—while “set[ting] creditors at arm’s length by refusing . . . to take any interest in the satisfaction of their claims”—then there is a prima facie case of fraud warranting appointment of a receiver. *Id.* at 180 (citing *Miller v. Hughes*, 12 S.E. 419 (S.C. 1890)). It is respectfully submitted that the appointment of a receiver over Atlas is appropriate under subsection (5) because Atlas engaged in an intentional scheme to defraud its creditors by refusing to appear or accept service in the United States after being faced with substantial asbestos-related liabilities.

Section 15-65-20 requires four days notice of this application be provided to the party to the action whose property is sought to be put in the hands of the receiver. Plaintiffs, concurrently herewith, have provided copies of this motion to Atlas’ counsel.

CONCLUSION

As set forth above, Atlas refuses to comply with this Court’s orders. The sanction for that action should be the striking of Atlas’ answer. After Atlas’ answer is stricken, this court should enter an order appointing a receiver as soon as practically possible. Plaintiffs respectfully suggest that Peter Protopapas be appointed the receiver over Atlas.

Respectfully submitted,

/s/ Aaron D. Chapman

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May 11, 2023
Dallas, Texas.

STATE OF SOUTH CAROLINA) **IN THE COURT OF COMMON PLEAS**

COUNTY OF RICHLAND) **FOR THE FIFTH JUDICIAL CIRCUIT**

**MELVIN G. WELCH and
DONNA B. WELCH**

C/A NO. 2022-CP-40-03834

Plaintiffs,

V.

3M COMPANY
f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY, et al.

Defendants.

EXHIBIT

14.2

ORDER ON PLAINTIFFS' MOTION TO APPOINT A RECEIVER

This order follows the Court’s order finding Atlas Turner Inc. f/k/a Atlas Asbestos Company (“Atlas”) in contempt of court and this Court’s entry of an order striking Atlas’ pleadings. Before the Court is Plaintiffs’ Motion to Appoint a Receiver over Atlas Turner, Inc. f/k/a Atlas Asbestos Company, Ltd (“Atlas”).

BACKGROUND

For the reasons set for below, the Court grants Plaintiffs motion to appoint a receiver over the Insurance Assets¹ of Atlas. Peter Protopapas is appointed as receiver over those Insurance Assets and the Court expects anyone or any entity having information or materials which are

¹ This term is defined below.

reasonably calculated to lead to the discovery of admissible evidence to cooperate with this Court's Receiver in locating and marshalling those assets.

PROCEEDURAL BACKGROUND

On May 11, 2023, this Court found Atlas to be in contempt of Court. The Court based its contempt order on Atlas' flat refusal to comply with this Court's orders to produce documents, a witness or otherwise participate in discovery. As part of this Court's order on contempt, the Court ordered Plaintiffs to brief the issue of the sanction requested.

On May 11, 2023, Plaintiffs filed their brief requesting that this Court strike Atlas' pleadings. Atlas' response was filed on May 15, 2023 and Plaintiffs' reply was filed on May 18, 2023. After considering the briefing of the parties, this Court determined that striking Atlas' answer was the appropriate sanction for contempt of this Court's orders.

Now, having struck Atlas' answer, Atlas is in default.²

LAW AND ANALYSIS

A. Appointment of a Receiver is Appropriate and Warranted

The South Carolina receivership statute provides in relevant part that a receiver may be appointed in cases in accordance with "existing practice." S.C. Code Ann. 15-65-10(5).³

² The process of actually entering default judgment is merely a ministerial process. In the absence of an answer, default is nothing more than that ministerial act. *Stark Truss Co., Inc. v. Superior Const. Corp.* 360 S.C. 503 (Ct. App. 2004)

³ A receiver is also available to carry a judgment into effect, which is the practical result of the coming default following the unopposed striking of Atlas' answer. Atlas further argues that there is no evidence of its insolvency, yet it refuses to comply with this Court's orders to discovery that and many other issues. The Court does not believe it is appropriate for Atlas to use this refusal as a sword. Regardless, other elements of the receivership statute are satisfied and thus, this argument is unavailing.

Historically, receivers are appointed by courts sitting in equity in order to ensure a fair result. *First Carolinas Joint Stock Land Bank of Columbia v. Knotts*, 191 S.C. 384 (1939). Indeed, “[t]he right to have a receiver appointed is an ancient one” *Pelzer v. Hughes*, 27 S.C. 408 (1887). But where, as here, Atlas’ has been struck, and thus only a ministerial action being left for Atlas to be in judgment, a receiver to take possession of and, to the extent necessary, litigate Atlas’ insurance assets is exactly the type of historical circumstances, the Court’s of this state have found appropriate. Specifically, where, as here, a debtor, solvent or otherwise,

is trying to defeat his creditors by an act or course of conduct which indicates moral fraud—a conscious intent to defeat, delay or hinder creditors in the collection of debts—then a court will grant any relief within its jurisdiction appropriate and effective to protect creditors against the fraud without requiring the creditor to run the risk of losing his debt from the delay of obtaining judgment and return of nulla bona on the execution.

Virginia Carolina Chemical v. Hunter, 84 S.C. 214 (1909).

Here it is exactly the moral fraud of Atlas’ personal jurisdiction claims, exposed by decades of opinions dismissing those very assertions and Atlas continued refusal to participate in this that warrants the appointment of a receiver.

Thus, where there is active wrongdoing and illegal refusal to comply with this Court’s orders, the appointment of a receiver is appropriate.

As Plaintiffs have requested, a receiver appointed here would have the authority to administer “any insurance assets” including “any claims related to the actions or failure to act of Atlas’s insurance carriers.” This Court’s view of the scope of a receiver’s authority is not unique. The United States Supreme Court recognized in *Porter v. Sabin*, 149 U.S. 473 (1893) that “[t]he whole property of the corporation [is] within the jurisdiction of the court which appointed the receiver, **including all its rights of action**, except so far as already lawfully disposed of under

orders of that court, [and] remains in its custody, to be administered and distributed by it.” *Id.* at 480 (emphasis added).

That the South Carolina receivership references “property within this state” is not a limitation on the Receiver’s authority in this case. Instead, the statutory reference is consistent with principles of comity, which deter a state court from reaching beyond a state’s borders and asserting jurisdiction over such property located in another jurisdiction. These same principles of comity support a state court’s authority to vest a statutory receiver to assert an insolvent corporation’s rights of action. See *e.g. Hirson v. United Stores Corp.* 263 A.D. 646, 34 N.Y.S.2d 122 (App. Div. 1st Dep. 1942), *aff’d* 43 N.E.2d 712 (N.Y. App. Ct. 1942) (holding that title to choses in action held by a receiver appointed pursuant to Delaware law would be afforded “full faith and credit”). That is the authority given to be given the receiver here.

That authority includes the insurance assets of Atlas. Even assuming Atlas’ interpretation of §15-65-10 is correct, to the extent they exist, Atlas’ Insurance Assets⁴ would be intended to protect the lives, interests and property within South Carolina. The result is that the insuring assets are subject to the laws of South Carolina, including the duly appointed Receiver.

S.C. Code Ann §38-61-10 states that

[a]ll contracts of insurance on property, lives, or interests in this state are considered to be made in the State and all contracts of insurance the applications for which are taken within this State are considered to have been made within this State and are subject to the laws of this State.

⁴ For purpose of clarity, this Court defines “Insurance Assets” as any insurance policy, proceeds of insurance policies, claims relating to such insurance policies, including but not limited to, claims relating to any breaches of duty relating to those policies, information relating to those insurance policies including, but not limited to mail, files of counsel, or other information which is reasonably calculated to lead to the discovery of admissible evidence about those insurance policies or any other assets which are related to, touch or are otherwise relevant to such insurance.

In interpreting §38-61-10, the South Carolina Supreme Court held that “[i]t is immaterial where the contract was entered into. Further there is no requirement that the policyholders or insurers be citizens of South Carolina. What is solely relevant is where the property, lives, or interests insured are located.” *Sangamo Weston v. Nat’l Sur. Corp.*, 307 S.C. 143, 149, 414 S.E.2d 127, 130 (1992)(Toal, C.J). The result is that “South Carolina substantive law governs [the insuring assets of Atlas]” *Id.*⁵ Thus the appointment of a receiver over those assets is appropriate.

B. Due Process has not and will not be violated

Atlas continues to ignore the jurisprudence of this state which directly addresses its due process argument. Atlas ignores, again, the teachings of the South Carolina Supreme Court in *Sangamo*.

Just as here, *Sangamo* argued that §38-61-10 was “unconstitutional.” *Id.* at 131. The South Carolina Supreme Court there opined that

insuring property, lives and interests in South Carolina constitutes a significant contact with this state. South Carolina has a substantial interest in who bears the liability for operations conducted in this state which result in injury to South Carolina property and citizens. Although the parties are not residents of this state, both parties availed themselves of the law of South Carolina when they respectively provided or received insurance on interests located in this state.

Id. Atlas sold its poison throughout the United States well knowing that it would end up in the workplaces of working men and women throughout the nation, including sales, specifically to South Carolina. Therefore, under the statutory scheme of this state and its interpreting precedent,

⁵ As more fully set forth above, the funds at issue appear to be the proceeds from settlements involving insurance contracts designed to protect lives, interests and property within the state and thus would also be governed by substantive South Carolina law.

whatever insuring assets of Atlas exist and related claims are subject to the substantive law of South Carolina and nothing about that result is violative of due process.

POWERS OF THE RECEIVER

As set forth above, the powers afforded to the receiver here are all related to the insurance assets of Atlas. Therefore, this Court hereby orders that Peter Protopapas be and hereby is appointed Receiver in this case with the power and authority fully administer all insurance assets of Atlas Turner, Inc. and any subsidiaries, accept service on behalf of Atlas, engage counsel on behalf of Atlas and take any and all steps necessary to protect the interests of Atlas whatever they may be. This order includes the right and obligation to administer any insurance or indemnification assets of Atlas as well as any claims related to the actions or failure to act of Atlas insurance carriers or other entities, including, but not limited to the officers, directors and/or shareholders of Atlas against which the Atlas may have claims.

In addition to the powers of the Receiver set forth herein, the Receiver shall have the following rights, powers and authority, insofar as they are related to the discovery of and recovery of insurance assets, to: 1) open any mail which is reasonably believed to contain information relating to insurance assets addressed to the defendant and addressed to any business owned by the Atlas; redirect the delivery of any such mail addressed to the Atlas or any business of the Atlas, so that such mail may come directly to the receiver; 2) endorse and cash all checks and negotiable instruments payable to Atlas relating to insurance assets; 3) obtain from any financial institution, bank, credit union, savings and loan or title, credit bureau or any other third party, any financial records belonging to or pertaining to the insurance assets of Atlas; 4) hire any person necessary to accomplish any right or power under this Order; and 5) take all action necessary to gain access to all storage facilities, safety-deposit boxes, real property, and leased premises wherein any property

of Atlas may be situated, and to review and obtain copies of all documents related to insurance assets of Atlas.

The Court expects the Receiver to investigate the existence of all insurance or indemnifications coverages or claims relating thereto which are potentially available to Atlas. The Receiver will provide potential insurers or indemnifiers with lists of work sites, contractors, and insurance brokers and agents to facilitate the insurers' searches for coverage (specifically including coverage provided to any related or subsidiary companies of Atlas or any entity for whom Atlas did work or supplied materials or licensed products or the use thereof as an "additional insured" under coverage written to another entity). The Court expects all insurers or indemnifiers to comply with subpoenas issued by this Court and its Receiver in effectuating these thorough searches.

This Court notes that under the *Barton* doctrine, suit against the Receiver outside of this Court is expressly prohibited.

CONCLUSION

For the foregoing reasons, the appointment of a receiver for Atlas to marshal all of the available insurance assets, including claims related thereto and any other property subject to this receivership of Atlas and its subsidiaries, successors, and assigns, is appropriate. Peter Protopapas is hereby appointed the receiver over Atlas consistent with this order.

IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: Melvin G Welch , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2022CP4003834

Type: Order/Appointment of Receiver

So Ordered

Jean H. Toal

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP4003834

Melvin G Welch et al
PLAINTIFF(S)

3M Company et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Atlas Turner Inc.'s Motion to Reconsider the June 21, 2023 Order on Plaintiff's Motion to Appoint a Receiver is DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/28/2023 .

Bendix Corporation
Allied Signal Inc.
Carborundum Company
Durez Corporation
Grand Auto Supply
Kragen Auto Parts
Csk Auto Inc.
Bridgestone Firestone North American Tire Llc
Viacom Inc.
Westinghouse Electric Corporation
Viacomcbs Inc.
Cbs Corporation
Monsanto Company
Pharmacia Corporation
Abex Corporation
Continental Insurance Company
Federal Insurance Company
Enstar (Us) Inc.
Maryland Casualty Company
Zurich American Insurance Co
Peter D Protopapas Receiver
Atlas Asbestos Company Ltd
Atlas Turner Inc.
Melvin G Welch Estate
Donna B Welch Prs
Crane Co
Riley Stoker Corporation
Db Riley Inc.
Babcock Borsig Power Inc.
Victor Gasket Manufacturing Company
Norton Company
Square D Company
Westvac

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

EXHIBIT

15

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Melvin G Welch , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2022CP4003834

Type: Order/Electronic Form 4

So Ordered

Jean H. Toal

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Court of Common Pleas
Jean Hoefer Toal, Circuit Court Judge

Case No. 2022-CP-40-03834

RECEIVED

Jul 06 2023

SC Court of Appeals

Donna B. Welch, individually and as Personal Representative of the Estate of Melvin
G. Welch, deceased,

Respondent,

v.

Advance Auto Parts, Inc.; American Honda Motor Co., Inc.; Atlas Asbestos Co; Atlas
Turner, Inc. as successor to Atlas Asbestos Co, a foreign company; Bahnson, Inc.;
Covil Corporation; Daniel International Corporation; Davis Mechanical Contractors,
Inc.; Ellington Insulation Company, Inc.; Fluor Constructors International f/k/a Fluor
Corporation; Fluor Constructors International, Inc.; Fluor Daniel Services
Corporation; Fluor Enterprises, Inc.; General Parts, Inc. individually and as
successor-in-interest to Carquest Corporation; Goodrich Corporation f/k/a The B. F.
Goodrich Company; The Goodyear Tire & Rubber Company; Graybar Electric
Company, Inc.; Honeywell International, Inc. individually and as successor-in-
interest to Allied Signal, Inc., as successor to Bendix Corporation; Morse Tec LLC
f/k/a Borgwarner Morse Tec LLC, and successor-by-merger to Borg-Warner
Corporation; Occidental Chemical Corporation as successor to Durez Corporation;
O'reilly Automotive Stores, Inc.; Paramount Global f/k/a Viacomcbs Inc., f/k/a CBS
Corporation, a Delaware corporation f/k/a Viacom, Inc., successor-by-merger to CBS
Corporation, a Pennsylvania corporation, f/k/a Westinghouse Electric Corporation;
Pneumo Abex LLC successor-in-interest to Abex Corporation; Redco Corporation
f/k/a Crane Co.; Reinz Wisconsin Gasket LLC f/k/a and/or successor to Reinz
Wisconsin Gasket Co. and Wisconsin Gasket Manufacturing Co., a wholly owned
subsidiary of Dco LLC; Rust Engineering & Construction, Inc.; Rust International
Inc.; Southern Insulation, Inc.; Spirax Sarco, Inc.; Union Carbide Corporation;
Westrock MWV, LLC individually and as successor-in-interest to Westvaco; ZF
Active Safety US Inc. f/k/a Kelsey-Hayes Company,

Defendants,

Of whom Atlas Turner, Inc., is

Appellant.

NOTICE OF APPEAL

** Counsel identified on next page **

EXHIBIT

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Receiver for "insurance assets" of Atlas Turner, Inc. per Order being appealed

Defendant Atlas Turner, Inc. hereby appeals the following orders of the Honorable Jean Hoefer Toal, Circuit Court Judge, copies of which are attached hereto:

- **Order Holding Atlas Turner, Inc. in Contempt**, filed May 11, 2023;
- **Form 4 Order, filed June 16, 2023**, denying Atlas Turner Inc.'s May 22, 2023 Motion to Reconsider and Vacate the Court's Contempt Order of May 11, 2023;
- **Order Striking Atlas Turner's Answer**, filed June 20, 2023;
- **Order on Plaintiffs' Motion to Appoint a Receiver**, filed June 21, 2023;
- **Form 4 Order filed June 28, 2023**, denying Atlas Turner Inc.'s Motion to Reconsider the June 20, 2023 Order Striking Atlas Turner's Answer.
- **Form 4 Order filed June 28, 2023**, denying Atlas Turner Inc.'s Motion to Reconsider June 21, 2023 Order on Plaintiff's Motion to Appoint a Receiver; and

Copies of the appealed orders are attached hereto and incorporated herein by reference. Appellant received written notice of entry of the most recent order on June 28, 2023.

Respectfully submitted,
CLEMENT RIVERS, LLP

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Attorneys for Appellant

Charleston, South Carolina

July 6, 2023

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Jul 06 2023

SC Court of Appeals

Appeal from Richland County
Court of Common Pleas
Jean Hoefer Toal, Circuit Court Judge

Case No. 2022-CP-40-03834

Donna B. Welch, individually and as Personal Representative of the Estate of Melvin
G. Welch, deceased,

Respondent,

v.

Advance Auto Parts, Inc.; American Honda Motor Co., Inc.; Atlas Asbestos Co; Atlas
Turner, Inc. as successor to Atlas Asbestos Co, a foreign company; Bahnson, Inc.;
Covil Corporation; Daniel International Corporation; Davis Mechanical Contractors,
Inc.; Ellington Insulation Company, Inc.; Fluor Constructors International f/k/a Fluor
Corporation; Fluor Constructors International, Inc.; Fluor Daniel Services
Corporation; Fluor Enterprises, Inc.; General Parts, Inc. individually and as
successor-in-interest to Carquest Corporation; Goodrich Corporation f/k/a The B. F.
Goodrich Company; The Goodyear Tire & Rubber Company; Graybar Electric
Company, Inc.; Honeywell International, Inc. individually and as successor-in-
interest to Allied Signal, Inc., as successor to Bendix Corporation; Morse Tec LLC
f/k/a Borgwarner Morse Tec LLC, and successor-by-merger to Borg-Warner
Corporation; Occidental Chemical Corporation as successor to Durez Corporation;
O'reilly Automotive Stores, Inc.; Paramount Global f/k/a Viacomcbs Inc., f/k/a CBS
Corporation, a Delaware corporation f/k/a Viacom, Inc., successor-by-merger to CBS
Corporation, a Pennsylvania corporation, f/k/a Westinghouse Electric Corporation;
Pneumo Abex LLC successor-in-interest to Abex Corporation; Redco Corporation
f/k/a Crane Co.; Reinz Wisconsin Gasket LLC f/k/a and/or successor to Reinz
Wisconsin Gasket Co. and Wisconsin Gasket Manufacturing Co., a wholly owned
subsidiary of Dco LLC; Rust Engineering & Construction, Inc.; Rust International
Inc.; Southern Insulation, Inc.; Spirax Sarco, Inc.; Union Carbide Corporation;
Westrock MWV, LLC individually and as successor-in-interest to Westvaco; ZF
Active Safety US Inc. f/k/a Kelsey-Hayes Company,

Defendants,

Of whom Atlas Turner, Inc., is

Appellant.

PROOF OF SERVICE

** Counsel identified on next page **

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Attorneys for Appellants

I, Stephen L. Brown, of Clement Rivers, LLP, attorneys for Appellants, hereby certify that **NOTICE OF APPEAL** was served on all other parties to this appeal on July 6, 2023, via email (see attached) to their following counsel of record:

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Receiver for “insurance assets” of Atlas Turner, Inc. per Order being appealed

I also certify that a copy of this **NOTICE OF APPEAL** is this day, July 6, 2023, being E-Filed with the lower court (which will also, i.e., in addition to service by email, effect service of the notice today on Respondent’s above-identified counsel of record via the E-Filing System).

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Stephen L. Brown
Stephen L. Brown (SC Bar No. 66468)

Attorneys for Appellants

Charleston, South Carolina

July 6, 2023

Bell, Pollyana (Polly)

From: Bell, Pollyana (Polly)
Sent: Thursday, July 6, 2023 4:38 PM
To: 'tmcvey@kassellaw.com'; 'jrutkoski@kassellaw.com'; 'achapman@dobslegal.com'; 'pdp@rplegalgroup.com'; 'jchandler@rplegalgroup.com'; 'bb@rplegalgroup.com'
Cc: 'Stephen Brown (sbrown@ycrlaw.com)'; Hines, Russell; Gandy, III, James D. (Tripp); Justman, Aimee
Subject: Welch v. Advance Auto Parts, Inc. et al. Notice of Appeal; 2022-CP-40-03834 (CR 20230593)
Attachments: 3 - 23.06.20 Order.pdf; 4 - 23.06.21 Order.pdf; 5 - 23.06.28 Order.pdf; 6 - 23.06.28 Order.pdf; Notice of Appeal.pdf; 1 - 23.05.11 Order.pdf; 2 - 23.06.16 Order.pdf

Enclosed please find Appellant Atlas Turner, Inc.'s Notice of Appeal and the orders referenced therein for service upon you in the above-referenced matter.

Thank you,

Pollyana Bell
Project Assistant
Commercial Litigation Practice Group
Phone:(843)720-5488 | Fax:(843)579-1369



CLEMENT RIVERS, LLP
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For more information

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	FOR THE FIFTH JUDICIAL CIRCUIT
Melvin G. Welch and Donna B. Welch,	In Re: Coordinated Asbestos Docket
Plaintiffs,	Civil Action No: 2022-CP-40-03834
v.	MOTION TO CLARIFY RECEIVERSHIP ORDER TO ASSUME CONTROL OVER THE DEFENSE OF ATLAS TURNER'S UNITED STATES ASBESTOS LITIGATION
3M Company, <i>et al.</i> ,	
Defendants.	

Pursuant to Rule 7(b) of the South Carolina Rules of Civil Procedure and the Court's plenary powers, Peter D. Protopapas, as Receiver for the Insurance Assets of Atlas Turner Inc. f/k/a Atlas Asbestos Company, Ltd., and its affiliates, ("Atlas"), respectfully moves this Court for an Order clarifying the Receivership Orders allowing the Receiver to assume control of the defense of asbestos claims made against Atlas Turner, Inc. in the United States. In support of this Motion, the Receiver would show as follows:¹

1. On June 21, 2023, Peter D. Protopapas was appointed as Receiver of the insurance assets of Atlas. (Ex. A, Appointment Order.)
2. The Appointment Order directs the "Receiver to investigate the existence of all insurance or indemnification coverage or claims relating thereto which are potentially available to Atlas. (*Id.* at p.7.) The Appointment Order also authorizes the Receiver to "engage counsel on behalf of Atlas and take any and all steps necessary to protect the interest of Atlas whatever they may be." (*Id.* at p.6.)

EXHIBIT

¹ Pursuant to Rule 11, SCRCF, the undersigned counsel certifies that consultation with Atlas would serve no useful purpose as it continually defies and fails to recognize this Court's appointment of a Receiver over its insurance assets.

3. Atlas Turner, Inc. is a viable Canadian corporation continually sued in South Carolina and other United States asbestos litigation and fails to participate and now maneuvers in a way to excuse its carriers from responding to the losses, including those incurred in South Carolina, which the insurers wrote coverage to address.

4. According to the Receiver's investigation to date (with which Atlas and its counsel have refused to cooperate) Atlas Turner, Inc., and its affiliates, appear to have millions of dollars' worth of insurance assets that are potentially available and responsive to the asbestos Plaintiffs' underlying asbestos claims against Atlas. (Ex. B, List Outlining Atlas' Insurance Assets.)

5. As part of its duties and pursuant to the Order of Appointment, the Receiver has tendered claims to various insurance carriers for a defense of Atlas in the underlying asbestos suits.

6. On July 21, 2023, Atlas Turner, Inc. received two letters from Resolute Management, Inc., (one on behalf of CNA-affiliated entities and one on behalf of Certain Underwriters at Lloyd's, and various, London Market Insurers), stating it has been advised by Atlas "that Atlas has continued to control its defense of the Asbestos Lawsuits even after entry of the Receivership Order" and will continue to control its own defenses because "Peter Protopapas is not objecting to Atlas's control of its own defense." Further, Atlas is not tendering the Asbestos Lawsuits for defense or indemnity. (Ex. C and D, Letter from Resolute Management to Atlas.)

7. On July 24, 2023, the Receiver received two letters from Resolute Management, Inc., (one on behalf of CNA-affiliated entities and one on behalf of Certain Underwriters at Lloyd's, and various, London Market Insurers), stating each has been "advised by Atlas that Atlas is controlling and defending its own interests, and [that the Receiver is] not objecting to Atlas's control of its own defense. Further, "Atlas is not tendering the Asbestos Lawsuits [to CNA or Lloyds] for defense and indemnity," and therefore, "given that Atlas is not tendering the Asbestos Lawsuits,

there is no defense or indemnity being requested.” (Ex. E and F, Letters from Resolute Management to Peter Protopapas.)

8. Atlas continues to thwart and oppose the activities of the Receiver. Its latest efforts to contravene the Receiver’s tenders of South Carolina asbestos cases to apparently responsive insurers for defense and indemnity is contrary to the Court’s stated goals for this receivership and directly hinders the Receiver from fulfilling his duties pursuant to his Appointment Order.

9. Accordingly, pursuant to the Order of Appointment instructing the Receiver to take all steps necessary to protect the interests of Atlas, the Receiver seeks a Clarifying Order from this Court authorizing him to assume control of the defense of the asbestos litigation pending against Atlas in the United States.

10. This Motion is further supported by the applicable law and any memorandum in support that may be submitted prior to the hearing on this matter.

Respectfully submitted,

s/ John K. Chandler

Brian M. Barnwell (SC Bar No. 78249)

John K. Chandler (SC Bar No. 100837)

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Counsel for the Receiver

This 25th day of July, 2023.

EXHIBIT A

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT

MELVIN G. WELCH and) C/A NO. 2022-CP-40-03834
DONNA B. WELCH)
Plaintiffs,)
v.)
3M COMPANY)
f/k/a MINNESOTA MINING AND)
MANUFACTURING COMPANY, et al.)
Defendants.)

ORDER ON PLAINTIFFS' MOTION TO APPOINT A RECEIVER

This order follows the Court's order finding Atlas Turner Inc. f/k/a Atlas Asbestos Company ("Atlas") in contempt of court and this Court's entry of an order striking Atlas' pleadings. Before the Court is Plaintiffs' Motion to Appoint a Receiver over Atlas Turner, Inc. f/k/a Atlas Asbestos Company, Ltd ("Atlas").

BACKGROUND

For the reasons set for below, the Court grants Plaintiffs motion to appoint a receiver over the Insurance Assets¹ of Atlas. Peter Protopapas is appointed as receiver over those Insurance Assets and the Court expects anyone or any entity having information or materials which are

¹ This term is defined below.

reasonably calculated to lead to the discovery of admissible evidence to cooperate with this Court's Receiver in locating and marshalling those assets.

PROCEEDURAL BACKGROUND

On May 11, 2023, this Court found Atlas to be in contempt of Court. The Court based its contempt order on Atlas' flat refusal to comply with this Court's orders to produce documents, a witness or otherwise participate in discovery. As part of this Court's order on contempt, the Court ordered Plaintiffs to brief the issue of the sanction requested.

On May 11, 2023, Plaintiffs filed their brief requesting that this Court strike Atlas' pleadings. Atlas' response was filed on May 15, 2023 and Plaintiffs' reply was filed on May 18, 2023. After considering the briefing of the parties, this Court determined that striking Atlas' answer was the appropriate sanction for contempt of this Court's orders.

Now, having struck Atlas' answer, Atlas is in default.²

LAW AND ANALYSIS

A. Appointment of a Receiver is Appropriate and Warranted

The South Carolina receivership statute provides in relevant part that a receiver may be appointed in cases in accordance with "existing practice." S.C. Code Ann. 15-65-10(5).³

² The process of actually entering default judgment is merely a ministerial process. In the absence of an answer, default is nothing more than that ministerial act. *Stark Truss Co., Inc. v. Superior Const. Corp.* 360 S.C. 503 (Ct. App. 2004)

³ A receiver is also available to carry a judgment into effect, which is the practical result of the coming default following the unopposed striking of Atlas' answer. Atlas further argues that there is no evidence of its insolvency, yet it refuses to comply with this Court's orders to discovery that and many other issues. The Court does not believe it is appropriate for Atlas to use this refusal as a sword. Regardless, other elements of the receivership statute are satisfied and thus, this argument is unavailing.

Historically, receivers are appointed by courts sitting in equity in order to ensure a fair result. *First Carolinas Joint Stock Land Bank of Columbia v. Knotts*, 191 S.C. 384 (1939). Indeed, “[t]he right to have a receiver appointed is an ancient one” *Pelzer v. Hughes*, 27 S.C. 408 (1887) But where, as here, Atlas’ has been struck, and thus only a ministerial action being left for Atlas to be in judgment, a receiver to take possession of and, to the extent necessary, litigate Atlas’ insurance assets is exactly the type of historical circumstances, the Court’s of this state have found appropriate. Specifically, where, as here, a debtor, solvent or otherwise,

is trying to defeat his creditors by an act or course of conduct which indicates moral fraud-a conscious intent to defeat, delay or hinder creditors in the collection of debts-then a court will grant any relief within its jurisdiction appropriate and effective to protect creditors against the fraud without requiring the creditor to run the risk of losing his debt from the delay of obtaining judgment and return of nulla bona on the execution.

Virginia Carolina Chemical v. Hunter, 84 S.C. 214 (1909).

Here it is exactly the moral fraud of Atlas’ personal jurisdiction claims, exposed by decades of opinions dismissing those very assertions and Atlas continued refusal to participate in this that warrants the appointment of a receiver.

Thus, where there is active wrongdoing and illegal refusal to comply with this Court’s orders, the appointment of a receiver is appropriate.

As Plaintiffs have requested, a receiver appointed here would have the authority to administer “any insurance assets” including “any claims related to the actions or failure to act of Atlas’s insurance carriers.” This Court’s view of the scope of a receiver’s authority is not unique. The United States Supreme Court recognized in *Porter v. Sabin*, 149 U.S. 473 (1893) that “[t]he whole property of the corporation [is] within the jurisdiction of the court which appointed the receiver, **including all its rights of action**, except so far as already lawfully disposed of under

orders of that court, [and] remains in its custody, to be administered and distributed by it.” *Id.* at 480 (emphasis added).

That the South Carolina receivership references “property within this state” is not a limitation on the Receiver’s authority in this case. Instead, the statutory reference is consistent with principles of comity, which deter a state court from reaching beyond a state’s borders and asserting jurisdiction over such property located in another jurisdiction. These same principles of comity support a state court’s authority to vest a statutory receiver to assert an insolvent corporation’s rights of action. See *e.g. Hirson v. United Stores Corp.* 263 A.D. 646, 34 N.Y.S.2d 122 (App. Div. 1st Dep. 1942), *aff’d* 43 N.E.2d 712 (N.Y. App. Ct. 1942) (holding that title to choses in action held by a receiver appointed pursuant to Delaware law would be afforded “full faith and credit”). That is the authority given to be given the receiver here.

That authority includes the insurance assets of Atlas. Even assuming Atlas’ interpretation of §15-65-10 is correct, to the extent they exist, Atlas’ Insurance Assets⁴ would be intended to protect the lives, interests and property within South Carolina. The result is that the insuring assets are subject to the laws of South Carolina, including the duly appointed Receiver.

S.C. Code Ann §38-61-10 states that

[a]ll contracts of insurance on property, lives, or interests in this state are considered to be made in the State and all contracts of insurance the applications for which are taken within this State are considered to have been made within this State and are subject to the laws of this State.

⁴ For purpose of clarity, this Court defines “Insurance Assets” as any insurance policy, proceeds of insurance policies, claims relating to such insurance policies, including but not limited to, claims relating to any breaches of duty relating to those policies, information relating to those insurance policies including, but not limited to mail, files of counsel, or other information which is reasonably calculated to lead to the discovery of admissible evidence about those insurance policies or any other assets which are related to, touch or are otherwise relevant to such insurance.

In interpreting §38-61-10, the South Carolina Supreme Court held that “[i]t is immaterial where the contract was entered into. Further there is no requirement that the policyholders or insurers be citizens of South Carolina. What is solely relevant is where the property, lives, or interests insured are located.” *Sangamo Weston v. Nat’l Sur. Corp.*, 307 S.C. 143, 149, 414 S.E.2d 127, 130 (1992)(Toal, C.J). The result is that “South Carolina substantive law governs [the insuring assets of Atlas]” *Id.*⁵ Thus the appointment of a receiver over those assets is appropriate.

B. Due Process has not and will not be violated

Atlas continues to ignore the jurisprudence of this state which directly addresses its due process argument. Atlas ignores, again, the teachings of the South Carolina Supreme Court in *Sangamo*.

Just as here, *Sangamo* argued that §38-61-10 was “unconstitutional.” *Id.* at 131. The South Carolina Supreme Court there opined that

insuring property, lives and interests in South Carolina constitutes a significant contact with this state. South Carolina has a substantial interest in who bears the liability for operations conducted in this state which result in injury to South Carolina property and citizens. Although the parties are not residents of this state, both parties availed themselves of the law of South Carolina when they respectively provided or received insurance on interests located in this state.

Id. Atlas sold its poison throughout the United States well knowing that it would end up in the workplaces of working men and women throughout the nation, including sales, specifically to South Carolina. Therefore, under the statutory scheme of this state and its interpreting precedent,

⁵ As more fully set forth above, the funds at issue appear to be the proceeds from settlements involving insurance contracts designed to protect lives, interests and property within the state and thus would also be governed by substantive South Carolina law.

whatever insuring assets of Atlas exist and related claims are subject to the substantive law of South Carolina and nothing about that result is violative of due process.

POWERS OF THE RECEIVER

As set forth above, the powers afforded to the receiver here are all related to the insurance assets of Atlas. Therefore, this Court hereby orders that Peter Protopapas be and hereby is appointed Receiver in this case with the power and authority fully administer all insurance assets of Atlas Turner, Inc. and any subsidiaries, accept service on behalf of Atlas, engage counsel on behalf of Atlas and take any and all steps necessary to protect the interests of Atlas whatever they may be. This order includes the right and obligation to administer any insurance or indemnification assets of Atlas as well as any claims related to the actions or failure to act of Atlas insurance carriers or other entities, including, but not limited to the officers, directors and/or shareholders of Atlas against which the Atlas may have claims.

In addition to the powers of the Receiver set forth herein, the Receiver shall have the following rights, powers and authority, insofar as they are related to the discovery of and recovery of insurance assets, to: 1) open any mail which is reasonably believed to contain information relating to insurance assets addressed to the defendant and addressed to any business owned by the Atlas; redirect the delivery of any such mail addressed to the Atlas or any business of the Atlas, so that such mail may come directly to the receiver; 2) endorse and cash all checks and negotiable instruments payable to Atlas relating to insurance assets; 3) obtain from any financial institution, bank, credit union, savings and loan or title, credit bureau or any other third party, any financial records belonging to or pertaining to the insurance assets of Atlas; 4) hire any person necessary to accomplish any right or power under this Order; and 5) take all action necessary to gain access to all storage facilities, safety-deposit boxes, real property, and leased premises wherein any property

of Atlas may be situated, and to review and obtain copies of all documents related to insurance assets of Atlas.

The Court expects the Receiver to investigate the existence of all insurance or indemnifications coverages or claims relating thereto which are potentially available to Atlas. The Receiver will provide potential insurers or indemnifiers with lists of work sites, contractors, and insurance brokers and agents to facilitate the insurers' searches for coverage (specifically including coverage provided to any related or subsidiary companies of Atlas or any entity for whom Atlas did work or supplied materials or licensed products or the use thereof as an "additional insured" under coverage written to another entity). The Court expects all insurers or indemnifiers to comply with subpoenas issued by this Court and its Receiver in effectuating these thorough searches.

This Court notes that under the *Barton* doctrine, suit against the Receiver outside of this Court is expressly prohibited.

CONCLUSION

For the foregoing reasons, the appointment of a receiver for Atlas to marshal all of the available insurance assets, including claims related thereto and any other property subject to this receivership of Atlas and its subsidiaries, successors, and assigns, is appropriate. Peter Protopapas is hereby appointed the receiver over Atlas consistent with this order.

IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: Melvin G Welch , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2022CP4003834

Type: Order/Appointment of Receiver

So Ordered

Jean H. Toal

EXHIBIT B

EXHIBIT 14

We have no record of sales made prior to 1968 and no detail (apart from the year and the amount of sales made in 1968 and 1969 and some in 1970 also.

Sales of products to companies listed on Exhibit A

Name

Johns-Manville Sales Corp.	1968	No record	7,469.40
	1969	No record	3,360.00
	1972	Asbestos cement sheets	861.77
Covil Insulation Co.	1968	No record	11,958.68
	1970	Asbestos insulation (Newtherm)	57,836.91
	1971	" (Newtherm)	98,828.59
	1972	" (Newtherm)	33,449.87
Delaware Insulation Co.	1973	Non-asbestos insulation (Newtherm)	3,144.15
Fuller-Austin Co.	1972	Asbestos insulation (Newtherm)	352.25
Porter-Hayden Co.	1970	No record	150.31
	1971	Asbestos insulation (Newtherm) & asbestos cement cylinders	1,374.59
	1972	Asbestos cement cylinders	3,185.76
	1973	" " "	3,228.00
	1974	Non-asbestos insulation (Newtherm), asbestos cement cylinders & asbestos cement sheets	10,031.46
	1975	Asbestos cement insulated board	1,528.11
	1976	Asbestos cement cylinders, asbestos cement sheets & asbestos cement insulated board	9,059.51
North Brothers Insulation Co.	1971	Asbestos insulation (Atlasite)	8,760.60
	1972	" " "	140,729.42
Armstrong Contracting & Supply Co.	1967	No record	4,388.75
	1968	No record	26,519.59
	1969	No record	66,140.44
	1970	Asbestos insulation (Newtherm)	112,121.17
		Asbestos fibre(Limpet)	
	1971	Asbestos insulation (Newtherm)	105,100.18
		Asbestos fibre(Limpet)	

EXHIBIT C

ELECTRONICALLY FILED - 2023 Apr 22 8:56 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4003834
ELECTRONICALLY FILED - 2023 Jul 27 10:33 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4003834

Armstrong Contracting &
Supply Co. (cont'd)

1972	Asbestos Insulation (Newtherm)	109,492.22
	Asbestos fibre(Limpet)	
1973	Non-asbestos insulation (Newtherm)	126,729.14
1974	Asbestos cement patio pots & non-asbestos in- sulation (Newtherm)	120,207.89
1975	Asbestos cement sheets, Asbestos cement patio pots & Non-asbestos insulation (Newtherm)	9,352.85
1976	Asbestos cement patio pots & non-asbestos insulation (Newtherm)	57,206.95

Philip Carey Corp.
Daniel Construction Co.

1969	No record	107.69
1970	No record	2,749.00
1975	Asbestos cement sheets & stainless steel hard- ware	212,611.71
1976	Asbestos cement sheets & stainless steel hard- ware	159,542.59

Guy M. Beatty & Co.

1967	No record	7,062.00
1970	Asbestos insulation (Newtherm)	2,091.68
1971	" " "	16,903.54
1972	" " "	33,960.22
1973	Non-asbestos insulation (Newtherm)	1,413.73

Industrial Insulation Co. Inc.

1969	No record	560.00
1970	Asbestos insulation (Newtherm)	1,369.63
1971	" " "	904.80
1972	" " "	2,379.24

<u>Name</u>	<u>Amount</u>	<u>Dates</u>
Canadian General Insurance Company	\$500,000	? - 1/10/64
The Royal Insurance Company, Ltd.	\$1,000,000	3/31/69 - 6/30/69
Canadian General Insurance Company	\$1,000,000	6/30/69 - 3/31/72
Federal Insurance Company	\$1,000,000	3/31/72 - 7/31/75
Lloyd's Underwriters	\$500,000 (2 layers \$2,000,000 excess - primary)	3/13/62 - 4/23/62
Lloyd's Underwriters	\$1,000,000 (2 layers \$4,000,000 excess - primary)	4/23/62 - 6/19/65
Lloyd's Underwriters	\$1,000,000 (2 layers \$4,000,000 excess - primary)	6/19/65 - 3/31/68
Lloyd's Underwriters	\$1,000,000 (2 layers \$4,000,000 excess - primary)	3/31/68 - 3/31/71
Federal Insurance Company	\$5,000,000 (excess - primary)	3/31/71 - 7/31/75
The Royal Insurance Company, Ltd.	\$1,000,000	1/10/64 - 4/1/69

Schedule

The following are other defendants to whom Atlas has sold asbestos materials. We have no records prior to 1968.

<u>Name</u>	<u>Date</u>	<u>Amount</u>	<u>Shipped to</u>
Johns Manville Products Corp.	1971	100.05	Georgia
	1972	977.41	"
	1973	6,884.52	Texas-90%; Ga 10%
	1974	709.16	Georgia
Standard Asbestos Manufacturing Co.	1967	256.94	No record
	1968	54.80	" "
	1969	202.45	" "
	1973	230.40	Missouri
Armstrong Cork Company	1967	45.32	No record
Owens-Corning Fiberglass Corp.	1969	536.96	No record
	1970	2,029.17	" "
	1973	17,189.49	Aruba(stopover)
	1972	4,866.13	Iran & S.C.
	1973	2,217.49	South Carolina
Certain-teed Products Corp.	1968	37.00	No record
	1971	4,724.72	Pennsylvania
Keene Corp.	1970	9,683.94	No record 60%; N.Y. 30% & Alabama 10%
Fibreboard Corp.	1971	10,058.90	California

EXHIBIT C

Keith Rahman

Account Manager

Direct Claims Division

Phone: 312-345-2093

Fax: 312-750-1706

Email: krahman@resolutemgmt.com

Resolute Management Inc.

141 West Jackson Boulevard

Chicago Board of Trade Annex

Suite 1800A

Chicago, IL 60604

July 21, 2023

VIA UNITED PARCEL SERVICE

Atlas Turner Inc.
854 Boul Ouellet
Thetford Mines
G6G 7A5 Quebec
Canada

Re: Asbestos Lawsuits
Atlas Turner Inc. f/k/a Atlas Asbestos Company ("Atlas")

Dear Atlas,

Resolute Management Inc. is the administrator on behalf of certain CNA-affiliated underwriting entities ("CNA") for certain asbestos claims that may impact CNA policies incepting prior to January 1, 2010. CNA understands that Atlas has been named as a defendant in various asbestos lawsuits in the Court of Common Pleas, Fifth Judicial Circuit South Carolina ("Asbestos Lawsuits"),¹ including the *Welch* lawsuit.

CNA is also aware of the order entered by Justice Jean Toal entered on June 20, 2023 ("Receivership Order") in the *Welch* lawsuit stating that it appointed Peter Protopapas as the receiver solely over Atlas' insurance assets, which is defined as proceeds of insurance, claims related to any breaches of duty relating to those policies, information related to those insurance policies and any other assets related to such insurance.² CNA has been advised by Atlas that Atlas has continued to control its defense of the Asbestos Lawsuits even after entry of the Receivership Order, which Atlas believes is its right even if the Receivership Order is allowed to stand, and that Peter Protopapas is not objecting to Atlas's control of its own defense.

¹ The lawsuits filed against Atlas are: (1) *Lenora Childers, Individually and as Personal Representative of the Estate of Lewis C. Childers v. 3M Company* (Case No. 2021-CP-40-03484); (2) *Ricky Dean Flynn, as the Executor of the Estate of Jerry Kay Flynn, Deceased v. 3M Company* (Case No. 2023-CP-40-00633); (3) *Sandra M. Gonce, Individually and as Executrix of the Estate of Dwight Gonce, Deceased v. Air & Liquid Systems Corporation* (Case No. 2023-CP-40-02933); (4) *Joe Eldra Goodwin, Individually, and as the Personal Representative of the Estate of Dorothy Jean Fox Goodwin v. Air & Liquid Systems Corporation* (Case No. 2020-CP-40-04613); (5) *Heather Donaghy, as Personal Representative of the Estate of Shirley Smiley Potter, deceased v. 4520 Corp., Inc.* (Case No. 2023-CP-40-03108); (6) *John A. Tibbs and Margaret B. Tibbs v. 3M Company* (2023-CP-40-01759); and (7) *Melvin G. Welch and Donna B. Welch v. 3M Company* (Case No. 2022-CP-40-03834).

² CNA is aware that Atlas has appealed the Receivership Order and believes it is void.

Atlas Turner, Inc.
July 21, 2023
Page 2 of 2

CNA has further been advised by Atlas that Atlas is defending its own interests in the Asbestos Lawsuits, and that Atlas is not tendering the Asbestos Lawsuits to CNA for defense or indemnity. Please advise if any of the above is incorrect.

If you have any questions concerning this correspondence, please feel free to contact me at krahman@resolutemgmt.com or 1-312-345-2093.

Best,

A handwritten signature in black ink, appearing to read "Keith P. Rahman", with a long horizontal flourish extending to the right.

Keith P. Rahman

EXHIBIT D

Keith Rahman

Account Manager

Direct Claims Division

Phone: 312-345-2093

Fax: 312-750-1706

Email: krahman@resolutemgmt.com

Resolute Management Inc.

141 West Jackson Boulevard

Chicago Board of Trade Annex

Suite 1800A

Chicago, IL 60604

July 21, 2023

VIA UNITED PARCEL SERVICE

Atlas Turner Inc.
854 Boul Ouellet
Thetford Mines
G6G 7A5 Quebec
Canada

Re: Asbestos Lawsuits
Atlas Turner Inc. f/k/a Atlas Asbestos Company ("Atlas")

Dear Atlas,

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Lloyd's Underwriters are also aware of the order entered by Justice Jean Toal entered on June 20, 2023 ("Receivership Order") in the *Welch* lawsuit stating that it appointed Peter Protopapas as the receiver solely over Atlas' insurance assets, which is defined as proceeds of insurance, claims related to any breaches of duty relating to those policies, information related to those insurance policies and any other assets related to such insurance.² Lloyd's Underwriters have been advised by Atlas that Atlas has continued to control its defense of the Asbestos Lawsuits even after entry of the Receivership Order, which Atlas believes is its right even if the Receivership Order is allowed to stand, and that Peter Protopapas is not objecting to Atlas's control of its own defense.

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Atlas Turner, Inc.
July 21, 2023
Page 2 of 2

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Keith P. Rahman

EXHIBIT E

Keith Rahman

Account Manager
Direct Claims Division
Phone: 312-345-2093
Fax: 312-750-1706
Email: krahman@resolutemgmt.com

Resolute Management Inc.

141 West Jackson Boulevard
Chicago Board of Trade Annex
Suite 1800A
Chicago, IL 60604

July 24, 2023

VIA EMAIL (pdp@rplegalgroup.com)

Peter Protopapas
Rikard & Protopapas, LLC
2110 N. Beltline Blvd.
Columbia, SC 29204

Re: Atlas Turner Inc. f/k/a Atlas Asbestos Company ("Atlas")

Dear Mr. Protopapas,

Resolute Management Inc. is the administrator on behalf of certain CNA-affiliated underwriting entities ("CNA") for certain asbestos claims that may impact CNA policies incepting prior to January 1, 2010. CNA received the email from Lindsay Valek, paralegal at Rikard & Protopapas, LLC, dated June 21, 2023 and responds to same herein.

As to the asbestos lawsuits filed against Atlas and listed in the June 21 communication ("Asbestos Lawsuits"),¹ CNA has been advised by Atlas that Atlas is controlling and defending its own interests in the Asbestos Lawsuits, and that you are not objecting to Atlas's control of its own defense. Atlas is not tendering the Asbestos Lawsuits to CNA for defense and indemnity. See enclosed communication to Atlas dated July 21, 2023. Given that Atlas is not tendering the Asbestos Lawsuits, there is no defense or indemnity being requested from CNA.

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Keith P. Rahman

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EXHIBIT F

Keith Rahman

Account Manager
Direct Claims Division
Phone: 312-345-2093
Fax: 312-750-1706
Email: krahman@resolutemgmt.com

Resolute Management Inc.

141 West Jackson Boulevard
Chicago Board of Trade Annex
Suite 1800A
Chicago, IL 60604

July 24, 2023

VIA EMAIL (pdp@rplegalgroup.com)

Peter Protopapas
Rikard & Protopapas, LLC
2110 N. Beltline Blvd.
Columbia, SC 29204

Re: Atlas Turner Inc. f/k/a Atlas Asbestos Company ("Atlas")

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STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

MICHAEL L. PERRY and
LONNIE L. LONG,

Plaintiffs,

v.

AMERICAN INTERNATIONAL
INDUSTRIES

AMERICAN INTERNATIONAL
INDUSTRIES, INC.

ATLAS TURNER INC.

AVON PRODUCTS, INC.

BARRETT'S MINERALS INC.

BLOCK DRUG COMPANY, INC.

BRENNTAG NORTH AMERICA, INC.

BRENNTAG SPECIALTIES, LLC

BRISTOL-MYERS SQUIBB COMPANY

C&S WHOLESALE GROCERS, LLC

CALVIN KLEIN INC.

CHANEL INC.

CHARLES B. CHRYSTAL COMPANY, INC.

CHATTEM, INC.

COLGATE-PALMOLIVE COMPANY

COLOR TECHNIQUES, INC.

COTY INC.

C/A NO. 2023-CP-40-_____

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

SUMMONS

(Jury Trial Demanded)

EXHIBIT

18

CVS HEALTH CORPORATION	)
	)
CVS PHARMACY, INC.	)
	)
EDC DRUG STORES, INC.	)
	)
ESTÉE LAUDER INC.	)
	)
ESTÉE LAUDER INTERNATIONAL, INC.	)
	)
THE ESTÉE LAUDER COMPANIES INC.	)
	)
FOOD LION, LLC	)
	)
GENUINE PARTS COMPANY	)
	)
GLAMOUR INDUSTRIES CO.	)
	)
HAWTHORNE PHARMACY, INC.	)
	)
HIMMEL MANAGEMENT CO. LLC	)
	)
HIMMEL MEDIA LLC	)
	)
HONEYWELL INTERNATIONAL, INC.	)
	)
IDELLE LABS, LTD.	)
	)
IMI FABI (DIANA) LLC	)
	)
IMI FABI (USA) INC.	)
	)
IMI FABI, LLC	)
	)
JANSSEN PHARMACEUTICALS, INC.	)
	)
JOHNSON & JOHNSON	)
	)
JOHNSON & JOHNSON HOLDCO (NA) INC.	)
	)
KENVUE INC.	)
	)
L'ORÉAL USA, INC.	)
	)
L'ORÉAL USA PRODUCTS, INC.	)
	)
LTL MANAGEMENT LLC	)

MINERALS TECHNOLOGIES INC.
THE NESLEMUR COMPANY
PFIZER INC.
PIGGLY WIGGLY, LLC
PNEUMO ABEX LLC
PRESERSE CORPORATION
THE PROCTER & GAMBLE COMPANY
PTI ROYSTON, LLC
PTI UNION LLC
RALPH LAUREN CORPORATION
RITE AID OF SOUTH CAROLINA, INC.
SHULTON, INC.
SPECIALTY MINERALS INC.
SUMITOMO CORPORATION OF
AMERICAS
TRUE PHARMACY
UNION CARBIDE CORPORATION
VI-JON, LLC
WALGREEN CO.
WALMART INC.
Defendants.

SUMMONS

TO DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the Plaintiffs' counsel, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service. If you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted,

/s/ Theile B. McVey

Theile B. McVey (SC Bar No. 16682)

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ATTORNEYS FOR PLAINTIFFS

August 3, 2023

Columbia, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT

MICHAEL L. PERRY and
LONNIE L. LONG

Plaintiffs,

v.

AMERICAN INTERNATIONAL
INDUSTRIES, individually and as successor-
in-interest to PINAUD, INC., BARBARA
ALICE, INC., ED. PINAUD, INC. d/b/a ED.
PINAUD, and NESTLE-LE MUR COMPANY,
all for the CLUBMAN line of products

AMERICAN INTERNATIONAL
INDUSTRIES, INC., individually and as
successor-in-interest to PINAUD, INC.,
BARBARA ALICE, INC., ED. PINAUD, INC.
d/b/a ED. PINAUD, and NESTLE-LE MUR
COMPANY, all for the CLUBMAN line of
products

ATLAS TURNER INC.
f/k/a ATLAS ASBESTOS COMPANY LTD.

AVON PRODUCTS, INC.

BARRETTS MINERALS INC.

BLOCK DRUG COMPANY, INC.
individually and as successor to THE GOLD
BOND STERILIZING POWDER CO. a/k/a
THE GOLD BOND CO.

BRENNTAG NORTH AMERICA, INC.
individually and as successor-in-interest to
MINERAL AND PIGMENT SOLUTIONS,
INC., as successor-in-interest to WHITTAKER,
CLARK & DANIELS, INC.

BRENNTAG SPECIALTIES, LLC
f/k/a BRENNTAG SPECIALTIES, INC.
f/k/a MINERAL AND PIGMENT

C/A NO. 2023-CP-40-_____

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

Living Mesothelioma

COMPLAINT

(Jury Trial Demanded)

SOLUTIONS, INC., as successor-in-interest to)
 WHITTAKER, CLARK & DANIELS, INC.)
)
BRISTOL-MYERS SQUIBB COMPANY)
)
C&S WHOLESALE GROCERS, LLC)
 f/k/a C&S WHOLESALE GROCERS, INC.)
 individually and as successor-in-interest to)
 FLEMING COMPANIES, INC., successor-in-)
 interest to PIGGLY WIGGLY COMPANY)
)
CALVIN KLEIN INC.)
)
CHANEL INC.)
)
CHARLES B. CHRYSTAL COMPANY,)
INC.)
)
CHATTEM, INC.)
 individually and as successor to MARTIN)
 HIMMEL, INC., successor to BLOCK DRUG)
 COMPANY INC., successor to THE GOLD)
 BOND STERILIZING POWDER COMPANY)
 a/k/a THE GOLD BOND COMPANY,)
 successor to GOLD BOND)
 PHARMACEUTICAL CORPORATION)
)
COLGATE-PALMOLIVE COMPANY)
 individually and as successor-in-interest to)
 THE MENNEN COMPANY)
)
COLOR TECHNIQUES, INC.)
)
COTY INC.)
)
CVS HEALTH CORPORATION)
)
CVS PHARMACY, INC.)
)
EDC DRUG STORES, INC.)
 f/k/a KERR DRUG STORES, INC.)
)
ESTÉE LAUDER INC.)
)
ESTÉE LAUDER INTERNATIONAL, INC.)
)
THE ESTÉE LAUDER COMPANIES INC.)

FOOD LION, LLC

GENUINE PARTS COMPANY

d/b/a NATIONAL AUTOMOTIVE PARTS
ASSOCIATION (NAPA)

GLAMOUR INDUSTRIES CO.

individually and as an S-corporation of
AMERICAN INTERNATIONAL
INDUSTRIES successor-in-interest to PINAUD,
INC., BARBARA ALICE, INC., ED. PINAUD,
INC. d/b/a ED. PINAUD, and NESTLE-LE
MUR COMPANY, all for the CLUBMAN line
of products

HAWTHORNE PHARMACY, INC.

HIMMEL MANAGEMENT CO. LLC

a/k/a HIMMEL GROUP, formerly d/b/a
MARTIN HIMMEL INC., individually and as
successor to BLOCK DRUG COMPANY INC.,
successor to THE GOLD BOND STERILIZING
POWDER CO. a/k/a THE GOLD BOND CO.

HIMMEL MEDIA LLC

individually and as successor to BLOCK DRUG
COMPANY INC., successor to THE GOLD
BOND STERILIZING POWDER CO. a/k/a
THE GOLD BOND CO.

HONEYWELL INTERNATIONAL, INC.

individually and as successor-in-interest to
ALLIED SIGNAL, INC., as successor to
BENDIX CORPORATION

IDELLE LABS, LTD.

IMI FABI (DIANA) LLC

IMI FABI (USA) INC.

IMI FABI, LLC

JANSSEN PHARMACEUTICALS, INC.

individually and as successor-in-interest to
Johnson & Johnson subsidiaries named

JOHNSON & JOHNSON CONSUMER INC.,)
 both prior to and after its 2021 restructurings)
 and colloquially known as “Old JJCI” and “New)
 JJCI”)
)
JOHNSON & JOHNSON)
)
JOHNSON & JOHNSON HOLDCO (NA))
INC., f/k/a JOHNSON & JOHNSON)
 CONSUMER INC., individually and as)
 successor-in-interest to Johnson & Johnson)
 subsidiary “Old JJCI”)
)
KENVUE INC.)
 individually and as successor-in-interest to)
 JOHNSON & JOHNSON CONSUMER INC.)
)
L’ORÉAL USA, INC.)
)
L’ORÉAL USA PRODUCTS, INC.)
)
LTL MANAGEMENT LLC)
)
MINERALS TECHNOLOGIES INC.)
)
THE NESLEMUR COMPANY)
 f/k/a THE NESTLE-LEMUR COMPANY)
)
PFIZER INC.)
)
PIGGLY WIGGLY, LLC)
 a subsidiary of C&S WHOLESALE GROCERS,)
 INC. sued individually and as successor-in-)
 interest to FLEMING COMPANIES, INC.,)
 successor-in-interest to PIGGLY WIGGLY)
 COMPANY)
)
PNEUMO ABEX LLC)
 individually and as successor-in-interest to)
 ABEX CORPORATION)
)
PRESERSE CORPORATION)
)
THE PROCTER & GAMBLE COMPANY)
 individually and as successor-in-interest to)
 SHULTON, INC.)
)

PTI ROYSTON, LLC	)
d/b/a PHARMA TECH INDUSTRIES	)
f/k/a PHARMA TECH INDUSTRIES, INC.	)
f/k/a BLACK CREEK CORPORATION	)
	)
PTI UNION LLC	)
d/b/a PHARMA TECH INDUSTRIES	)
individually and as successor-in-interest to	)
PHARMA TECH INDUSTRIES, INC. f/k/a	)
BLACK CREEK CORPORATION, as	)
successor-in-interest to DIRECT	)
PHARMACEUTICAL CORPORATION and as	)
successor-in interest to ENVI DIVERSIFIED,	)
INC. f/k/a PHARMA-TECH INDUSTRIES,	)
INC.	)
	)
RALPH LAUREN CORPORATION	)
	)
RITE AID OF SOUTH CAROLINA, INC.	)
	)
SHULTON, INC.	)
a subsidiary of THE PROCTER & GAMBLE	)
COMPANY	)
	)
SPECIALTY MINERALS INC.	)
	)
SUMITOMO CORPORATION OF	)
AMERICAS	)
	)
TRUE PHARMACY	)
	)
UNION CARBIDE CORPORATION	)
	)
VI-JON, LLC	)
f/k/a VI-JON, INC. f/k/a CUMBERLAND	)
SWAN	)
	)
WALGREEN CO.	)
	)
WALMART INC.	)
	)
Defendants.	)
	)

PLAINTIFFS' ORIGINAL COMPLAINT

Plaintiffs, MICHAEL L. PERRY and LONNIE L. LONG (hereinafter "Plaintiffs"), sue the named Defendants for compensatory and punitive damages, by and through their attorneys, and come before this court and allege as follows:

GENERAL ALLEGATIONS

1. Plaintiff Michael L. Perry has been diagnosed with mesothelioma caused by asbestos dust and fibers.

2. This Court has personal jurisdiction over Defendants because Plaintiffs' claims arise from Defendants' conduct in:

- (a) Transacting business in this State, including the sale, supply, purchase, and/or use of asbestos and/or asbestos-containing products, within this State;
- (b) Contracting to supply services or things in the State;
- (c) Commission of a tortious act in whole or in part in this State;
- (d) Having an interest in, using, or possessing real property in this State;
- (e) Entering into a contract to be performed in whole or in part by either party in this State; and/or
- (f) Exposing Plaintiff to asbestos dust, fibers and/or particles generated from the ordinary and foreseeable use of the asbestos-containing products it sold, supplied, distributed, incorporated, and/or otherwise placed in the stream of commerce in the State of South Carolina and/or other states at times relevant to this action.

3. Every Defendant that has obtained a certificate of authority to transact business in South Carolina has thereby agreed that it is amenable to suit in this State. This Court may exercise general jurisdiction over such foreign corporations consistent with due process.

4. At all times material hereto, Defendants acted through their agents, servants or employees who were acting within the scope of their employment on the business of the Defendants.

5. The Defendants are corporations, companies or other business entities which, during all times material hereto, and for a long time prior thereto have been, and/or are now engaged, directly or indirectly, in the manufacturing, producing, selling, merchandising, supplying, distributing, installing, removing, and/or otherwise placing in the stream of commerce, asbestos-containing products. Courts of the State of South Carolina have personal jurisdiction over all Defendants.

6. Each Defendant, or its predecessors in interest, that manufactured, sold, and/or distributed asbestos-containing products, raw asbestos materials, raw asbestos talc, and/or asbestos-containing talc products for use in South Carolina, and other states, at times relevant to this action are referred to herein as "Product Defendants." At all times relevant to this action, the Product Defendants and the predecessors of the Product Defendants for whose actions the Product Defendants are legally responsible, were engaged in the manufacture, sale and distribution of asbestos-containing products, raw asbestos, raw asbestos talc, and/or asbestos-containing talc materials.

7. Plaintiffs' claims against the Product Defendants, as defined herein, arise out of Defendants' purposeful efforts to serve directly or indirectly the market for their asbestos and/or asbestos-containing products in this State, either through direct sales or through utilizing an

established distribution channel with the expectation that their products would be purchased and/or used within South Carolina.

8. All of the named Defendants are corporations who purposefully availed themselves of the privilege of doing business in this State, and whose substantial and/or systematic business in South Carolina exposed Plaintiff Michael L. Perry to asbestos in this State, subjecting them to the jurisdiction of the South Carolina courts pursuant to the South Carolina Long-Arm Statute and the United States Constitution.

9. Plaintiff Michael L. Perry was exposed to asbestos and/or asbestos-containing body talc products from his birth until approximately 2018 through his personal use, and his family's use, of asbestos-containing body talc products throughout his life, his use and his family's use of asbestos-containing body talc products. These asbestos-containing talcum products were designed, advertised, marketed, and sold as being appropriate for use in the ordinary course by Defendants identified above. It was foreseeable Defendants' asbestos-containing talcum products would be sold for personal use by individuals like Plaintiff Michael L. Perry on himself. Plaintiff Michael L. Perry was thereby exposed to defendants' asbestos-containing talcum products in the State of South Carolina.

10. Plaintiff was further exposed to asbestos through his employment at various hotel locations where asbestos and asbestos-containing products were removed, replaced, and present in certain facilities.

11. Plaintiff was also exposed to asbestos-containing products at various times throughout his life from his non-occupation work maintaining his vehicles working with asbestos-containing friction products.

12. Plaintiff Michael L. Perry has suffered personal injuries as a proximate result of his regular and prolonged use of, inhalation, ingestion, absorption, and exposure to a variety of asbestos-containing products¹ where asbestos-containing talc was a constituent ingredient.

13. Plaintiff, Michael L. Perry, was exposed to asbestos through his personal daily use, and his family's use, of a variety of talc-based body products including, but not limited to, Ammens body powders, Avon body powders, Calvin Klein talc powder, Cashmere Bouquet talc powders, Chanel talc products, Clubman talc products, Coty talc products, Drakkar Noir talc powder, Estee Lauder talc products, Gold Bond body powders, Johnson and Johnson Baby Powder, Shower to Shower body powder, Mennen talc products, Old Spice talc products, Pinaud talc products, Polo talc powder, Stetson talc products, Walgreens body powders, Walmart body powders, and White Linen talcum powder, ("Talc Powder Products") throughout his life. These products were manufactured, marketed, sold and/or distributed by Defendants.

14. Plaintiff also claims exposure from the Defendant talc suppliers, mines, mills, and labs named in his complaint that provided asbestos-containing talc as a constituent ingredient to the Powder Products he used.

15. Each use of the Powder Products was an intended and foreseeable use of the products based on the advertising, marketing and labeling of the products.

16. Plaintiff Michael L. Perry's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

¹ As used throughout this complaint, the term "asbestos" shall be interpreted in the broadest sense and included, without limitation, non-regulated and non-commercial forms of asbestos (including non-fibrous asbestos), cleavage fragments, and transition/transitional fibers, without limitation as to fiber size, dimension, or ratio.

17. Plaintiffs were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

18. Each of the named Defendants is liable for damages stemming from its own tortious conduct or the tortious conduct of an “alternate entity” as hereinafter defined. Defendants are liable for the acts of their “alternate entity” and each of them, in that there has been a corporate name change, Defendant is the successor by merger, by successor in interest, or by other acquisition resulting in a virtual destruction of Plaintiffs’ remedy against each such “alternate entity”; Defendants, each of them, have acquired the assets, product line, or a portion thereof, of each such “alternate entity”; such “alternate entities” have acquired the assets, product line, or a portion thereof of each such Defendant; Defendants, and each of them, caused the destruction of Plaintiffs’ remedy against each such “alternate entity”; each such Defendant has the ability to assume the risk-spreading role of each such “alternate entity;” and that each such defendant enjoys the goodwill originally attached to each “alternate entity.”

DEFENDANT	ALTERNATE ENTITY
AMERICAN INTERNATIONAL INDUSTRIES	PINAUD, INC., BARBARA ALICE, INC., ED. PINAUD, INC., ED. PINAUD, NESTLE-LE MUR COMPANY, and CLUBMAN
AMERICAN INTERNATIONAL INDUSTRIES, INC.	PINAUD, INC., BARBARA ALICE, INC., ED. PINAUD, INC., ED. PINAUD, NESTLE-LE MUR COMPANY, and CLUBMAN
ATLAS TURNER INC.	ATLAS ASBESTOS COMPANY LTD.
BLOCK DRUG COMPANY, INC.	THE GOLD BOND STERILIZING POWDER CO. and THE GOLD BOND CO.
BRENNTAG NORTH AMERICA, INC.	MINERAL AND PIGMENT SOLUTIONS, INC. and WHITTAKER, CLARK & DANIELS, INC.

DEFENDANT	ALTERNATE ENTITY
BRENNTAG SPECIALTIES, LLC	BRENNTAG SPECIALTIES, INC., MINERAL AND PIGMENT SOLUTIONS, INC. and WHITTAKER, CLARK & DANIELS, INC
C&S WHOLESALE GROCERS, LLC	C&S WHOLESALE GROCERS, INC., FLEMING COMPANIES, INC. and PIGGLY WIGGLY COMPANY
CHATTEM, INC.	MARTIN HIMMEL, INC., BLOCK DRUG COMPANY INC., THE GOLD BOND STERILIZING POWDER COMPANY, THE GOLD BOND COMPANY, and GOLD BOND PHARMACEUTICAL CORPORATION
COLGATE-PALMOLIVE COMPANY	THE MENNEN COMPANY
EDC DRUG STORES, INC.	KERR DRUG STORES, INC.
GENUINE PARTS COMPANY	NATIONAL AUTOMOTIVE PARTS ASSOCIATION (NAPA)
GLAMOUR INDUSTRIES CO.	PINAUD, INC., BARBARA ALICE, INC., ED. PINAUD, INC., ED. PINAUD, NESTLE-LE MUR COMPANY, and CLUBMAN
HIMMEL MANAGEMENT CO. LLC	HIMMEL GROUP, MARTIN HIMMEL INC., BLOCK DRUG COMPANY INC., THE GOLD BOND STERILIZING POWDER CO., and THE GOLD BOND CO.
HIMMEL MEDIA LLC	BLOCK DRUG COMPANY INC., THE GOLD BOND STERILIZING POWDER CO., and THE GOLD BOND CO.
HONEYWELL INTERNATIONAL, INC	ALLIED SIGNAL, INC. and BENDIX CORPORATION
JANSSEN PHARMACEUTICALS, INC.	JOHNSON & JOHNSON CONSUMER INC.
JOHNSON & JOHNSON HOLDCO (NA) INC.	JOHNSON & JOHNSON CONSUMER INC.

DEFENDANT	ALTERNATE ENTITY
KENVUE INC.	JOHNSON & JOHNSON CONSUMER INC.
LTL MANAGEMENT LLC	JOHNSON & JOHNSON CONSUMER INC.
THE NESLEMUR COMPANY	THE NESTLE-LEMUR COMPANY
PIGGLY WIGGLY, LLC	C&S WHOLESALE GROCERS, INC., FLEMING COMPANIES, INC. and PIGGLY WIGGLY COMPANY
PNEUMO ABEX LLC	ABEX CORPORATION
THE PROCTER & GAMBLE COMPANY	SHULTON, INC.
PTI ROYSTON, LLC	PHARMA TECH INDUSTRIES, PHARMA TECH INDUSTRIES, INC. and BLACK CREEK CORPORATION
PTI UNION LLC	PHARMA TECH INDUSTRIES, PHARMA TECH INDUSTRIES, INC., BLACK CREEK CORPORATION, DIRECT PHARMACEUTICAL CORPORATION, ENVI DIVERSIFIED, INC., and PHARMA-TECH INDUSTRIES, INC.
SHULTON, INC.	THE PROCTER & GAMBLE COMPANY
VI-JON, LLC	VI-JON, INC. and CUMBERLAND SWAN

19. Plaintiffs have been informed and believe, and thereon allege, that at all times herein mentioned, Defendants or their “alternate entities” were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and existing under and by virtue of the laws of the State of South Carolina, or the laws of some other

state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

20. Plaintiffs have been informed and believe, and thereon allege, that at all times herein mentioned, certain Defendants are subject to the following facts relating to their successor liability status, as stated below:

- (a) The Declaration of John K. Kim in Support of First Day Pleadings in LTL's second Bankruptcy filing on April 4, 2023 ("**Kim LTL Decl.**"), *In re: LTL Management LLC*, Case No.: 23-12825, United States Bankruptcy Court District of New Jersey ("**LTL 2**"), summarizes J&J's and its affiliates' corporate history that is pertinent to the claims alleged herein against the Defendants as follows:
 - (i) "J&J, a New Jersey company incorporated in 1887, first began selling JOHNSON'S® Baby Powder in 1894, launching its baby care line of products."
 - (ii) "In 1972, J&J established a formal operating division for its baby products business, which included JOHNSON'S® Baby Powder.... J&J transferred all its assets and liabilities associated with the baby products division to J&J Baby Products."
 - (iii) "In 1981, J&J Baby Products transferred all its assets, except those assets allocated to its diaper programs, to Omni Education Corporation ("Omni"), a wholly owned subsidiary of J&J Baby Products. In turn, Omni assumed all liabilities of J&J Baby Products except those liabilities related to its diaper program. Immediately following the transaction, J&J Baby Products merged into another subsidiary of J&J and was renamed Personal Products Company, and Omni changed its name to Johnson & Johnson Baby Products Company."
 - (iv) "In 1988, Johnson & Johnson Baby Products Company transferred all its assets in respect of its baby products business to Johnson & Johnson Dental Products Company, which assumed all of its liabilities and was renamed Johnson & Johnson Consumer Products, Inc."
 - (v) "In 1997, Johnson & Johnson Consumer Products, Inc. changed its name to Johnson & Johnson Consumer Companies, Inc. ("J&J Consumer Companies")."

- (vi) “In 2015, J&J Consumer Companies merged with and into an affiliate, which then merged into McNeil-PPC, Inc. The resulting entity was renamed Johnson & Johnson Consumer Inc. (including all former names and historical forms, “Old JJCI”).”
- (vii) “Old JJCI became responsible for all claims alleging that JOHNSON’S® Baby Powder and other talc-containing products cause cancer or other diseases.... Old JJCI also became responsible for all claims alleging that Shower to Shower products, which contained talc, cause cancer or other diseases.”
- (b) J&J and its subsidiary, “Johnson & Johnson Consumer, Inc.,” both in the form of “Old JJCI” and “New JJCI” (which is identified and described below), were at all times material responsible for the design, labeling, marketing, distribution, and sale of J&J’s body powder product lines, including the iconic Johnson & Johnson Baby Powder product line.
- (c) Each and every one of the J&J’s corporate entities, including itself and its affiliated companies involved or associated with talc business and PRODUCTS, were at all times material to this case aware that raw talc ingredient and/or resulting talc-based PRODUCTS contained asbestos, and each and all collectively actively concealed such fact from the public for decades.
- (d) Prior to the implementation of J&J’s multifaceted restructuring of its consumer product subsidiaries in 2021, Old JJCI and its predecessors milled, manufactured, labeled, sold, supplied, distributed, and/or marketed asbestos-containing PRODUCTS to which Plaintiff was exposed.
- (e) In an effort to avoid or eliminate J&J and Old JJCI’s respective responsibility and liability for injuries and harm caused by Johnson & Johnson Baby Powder, as well as other talc PRODUCTS, in or about October 2021, Old JJCI underwent a series of corporate restructuring transactions under Texas state corporation and business law in which it split itself into two separate entities through a device referred to as a “divisive merger,” more commonly known as the “Texas Two Step.”
- (f) The corporate restructuring was designed and undertaken with the intent to isolate the talc liabilities of Old JJCI into a newly invented company created by J&J called “LTL Management LLC” (“LTL”). “LTL” is an acronym for “Legacy Talc Liability.”
- (g) LTL was immediately thereafter put into a Chapter 11 Bankruptcy wherein LTL and other J&J entities sought the protection of the Bankruptcy Code’s processes and machinery to obtain a stay of all pending litigation and construct an aggregate resolution of its outstanding present and future

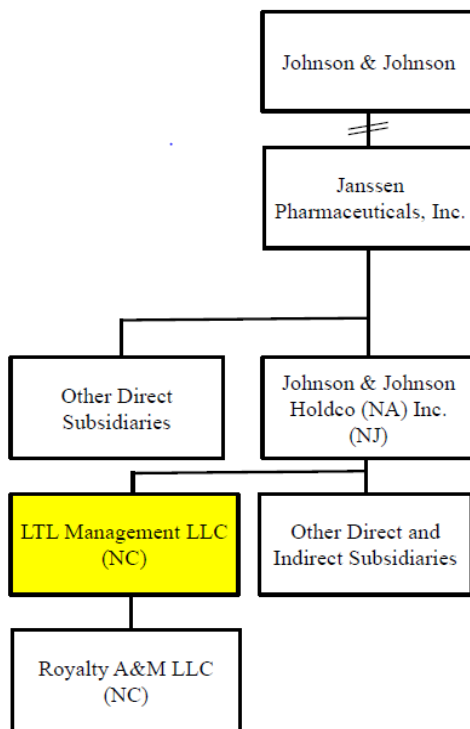
asbestos liabilities that would foreclose jury trials and reduce the compensation they would owe to those harmed by its PRODUCTS and their families, given that J&J and its subsidiaries were increasingly being held liable by juries in lawsuits brought by talc asbestos claimants and were being ordered to pay compensatory and exemplary damages.

- (h) As part of J&J's liability avoidance/limiting corporate restructuring, all of the productive assets of Old JJCI, including those used to manufacture and market J&J Baby Powder, were transferred to a newly minted corporate entity named "Johnson & Johnson Consumer Inc." ("New JJCI"). New JJCI upon receipt of the Old JJCI's operating assets continued to sell J&J Baby Powder, as had Old JJCI previously before when J&J itself directly marketed the product line through an internal division.
- (i) Over the objection of tens of thousands of personal injury and wrongful death tort plaintiffs, the Bankruptcy Court presiding over LTL's 2021 bankruptcy case stayed and enjoined prosecution of all litigation against not only the Debtor LTL but all cosmetic talc injury related litigation involving J&J and New JJCI.
- (j) During LTL's bankruptcy proceedings, representatives of the affected personal injury and wrongful death tort victims challenged J&J's Texas Two Step scheme before the Bankruptcy Court. After losing their challenges before the Bankruptcy Court, they were ultimately successful on appeal before the United States Court of Appeals for the Third Circuit, which on January 30, 2023, ruled that the Bankruptcy filing by LTL was not proper and ordered that LTL's 2021 Bankruptcy case be dismissed. In re: LTL Management, LLC, No. 22-0007, 2023 WL 2760479 (3d Cir., decided Jan. 30, 2023; opinion entered Mar. 31, 2023).
- (k) LTL's efforts to obtain re-argument before the Third Circuit panel hearing its appeal or an en banc hearing were denied, and the Appeals Court's mandate to the Bankruptcy Court was issued by the Third Circuit Clerk on March 31, 2023, thereby triggering the lower court's duty to enter an order dismissing the case.
- (l) Within hours of the LTL Bankruptcy Court issuing its ensuing dismissal order on April 4, 2023, LTL filed a second Chapter 11 petition for bankruptcy protection in the same court seeking the same relief as in the dismissed case, claiming its funding sources and arrangements had been replaced and reconfigured in such way that purportedly overcomes the Third Circuit's reasons for ordering the earlier bankruptcy case be dismissed.
- (m) Unbeknownst to Plaintiff, during the time the Third Circuit Court of Appeals was considering the propriety of LTL's bankruptcy filing, New JJCI began the process of moving its assets and business to yet another J&J

subsidiary, Defendant Kenvue, Inc., by transfers through JJCI's direct parent, Janssen Pharmaceuticals, Inc.

- (n) According to the Kim Declaration, as part of J&J's further corporate restructuring, New JJCI changed its name to "Johnson & Johnson Holdco (NA) Inc." ("Holdco"), a New Jersey corporation. His declaration before the Bankruptcy Court additionally revealed that "in early January 2023, [New JJCI] transferred its Consumer Business assets to its parent entity." See Kim LTL Decl. at ¶ 26.
- (o) While Mr. Kim's declaration does not expressly state who the parent entity is, a careful examination of the affidavit demonstrates that Janssen Pharmaceuticals, Inc. is the parent entity of Defendant New JJCI. *Id.* Figure 1 below is from an Exhibit to Mr. Kim's Declaration and shows that Janssen is the parent that received all of the JJCI assets used to manufacture, market, and sell J&J Baby Powder.

Figure 1



- (p) Accordingly, under South Carolina law, both Holdco and Janssen are successors to Old JJCI and responsible for the contractual undertakings and tortious conduct of Old JJCI.

- (q) The information gleaned from Mr. Kim’s Declaration and a J&J subsidiary’s SEC filings shows that J&J is in the process once again of manipulating assets and responsibilities related to the sale of J&J’s Baby Powder.
- (r) On January 4, 2023, Defendant Kenvue, another J&J subsidiary, submitted its first filing with the Securities and Exchange Commission (“SEC”), an S-1 registration of securities form. Kenvue Inc. Form S-1 Registration Statement Under the Securities Act of 1933 (Jan. 4, 2023). Figure 2 below reproduces a portion of the filing’s cover page.

Figure 2

As filed with the Securities and Exchange Commission on January 4, 2023.			Registration No. 333-
UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549 FORM S-1 REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 Kenvue Inc. (Exact name of registrant as specified in its charter) 2844 (Primary Standard Industrial Classification Code Number) 88-1032011 (I.R.S. Employer Identification Number) 199 Grandview Road Skillman, NJ 08558 (732) 524-0400 (Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)			
Delaware (State or other jurisdiction of incorporation or organization)			

- (s) In its SEC registration filing, Kenvue sets forth the products that it claims to manufacture and sell in the United States. In this regard, Kenvue represented to the SEC and the public: “A number of our products marketed in the United States, including many of our products in our Skin Health and Beauty segment, are considered cosmetics regulated by the FDA through the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act. Our cosmetic products include Aveeno Restorative Skin Therapy Oat Repairing Cream, Aveeno Restorative Skin Therapy Sulfate-Free Body Wash, Johnson’s Baby Powder and certain of our Listerine mouthwash products.” *Id.* (emphasis added).
- (t) Kenvue acknowledged in its SEC S-1 filing that it may be held accountable for the harm caused by the talc-based PRODUCTS it is responsible for: “It is also possible that various parties will seek to bring **and will be successful** in bringing claims against us, including by raising allegations that we are liable for the Talc-Related Liabilities” *Id.* (emphasis added).
- (u) Kenvue further acknowledges itself as the company responsible for the manufacture of Johnson’s Baby Powder indicating that it “may be subject to additional claims . . . related to the sale of talc-based Johnson’s Baby Powder in markets where we have discontinued this product (such as in the United States and Canada), including potential governmental inquiries,

investigations, claims and consumer protection cases from state attorneys general.” Id. (emphasis added).

- (v) Kenvue also acknowledges that it is “responsible for all liabilities on account of or relating to harm arising out of, based upon, or resulting from, directly or indirectly, the presence of or exposure to talc or talc-containing products sold outside the United States or Canada.” Id.
- (w) As such, Kenvue is responsible individually and as successor to all predecessor entities involved in the manufacturing, marketing, and sale of the asbestos-containing talc PRODUCTS to which the Plaintiff was exposed.

21. For purposes of clarity and avoidance of doubt, this Complaint is not asserting and does not assert claims against, or seek any relief from Imerys Talc Vermont, Inc., or any of its affiliates (collectively, “Imerys”), and not relief obtained by Plaintiff pursuant to this Complaint will be used by the Plaintiff against Imerys in any manner.

22. Plaintiffs have been informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

23. As a direct and proximate result of the conduct as alleged within, Plaintiff Michael L. Perry suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

24. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Michael L. Perry incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to

Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Michael L. Perry's medical treatment is ascertained.

25. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiff Michael L. Perry incurred, and will continue to incur, loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs pray leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

THE PARTIES

26. Plaintiffs, Michael L. Perry and Lonnie L. Long, are currently residents of the State of South Carolina. Plaintiff Michael L. Perry was exposed to asbestos during the course of his career at various job sites, including but not limited to, locations in South Carolina and Illinois.

27. Plaintiff Michael L. Perry was also exposed to asbestos from his personal use, and his family's use, of asbestos-containing talc-based powder products throughout his life in his Illinois, Florida and South Carolina homes beginning in the 1960s. The dust and fibers from the asbestos-containing talc products permeated his person and clothes. As a direct and proximate result of Michael L. Perry's inhalation and ingestion of dust particles and fibers, he was diagnosed with Mesothelioma on or about July 7, 2023.

28. Defendant, **AMERICAN INTERNATIONAL INDUSTRIES**, individually and as successor-in-interest to PINAUD, INC., BARBARA ALICE, INC., ED. PINAUD, INC. d/b/a ED. PINAUD, and NESTLE-LE MUR COMPANY, all for the CLUBMAN line of products, was and is a California General Partnership with its principal place of business in California. At all times material hereto, AMERICAN INTERNATIONAL INDUSTRIES was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding,

supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products, including, but not limited to, asbestos-containing Clubman talc products and Pinaud talc products used by Plaintiff and others living in the same household with Plaintiff. AMERICAN INTERNATIONAL INDUSTRIES is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

29. Defendant, **AMERICAN INTERNATIONAL INDUSTRIES INC.**, individually and as successor-in-interest to PINAUD, INC., BARBARA ALICE, INC., ED. PINAUD, INC. d/b/a ED. PINAUD, and NESTLE-LE MUR COMPANY, all for the CLUBMAN line of products, was and is a Nevada corporation with its principal place of business in Nevada. At all times material hereto, AMERICAN INTERNATIONAL INDUSTRIES INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products, including, but not limited to, asbestos-containing Clubman talc products and Pinaud talc products used by Plaintiff and others living in the same household with Plaintiff. AMERICAN INTERNATIONAL INDUSTRIES INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

30. Defendant, **ATLAS TURNER INC.**, f/k/a ATLAS ASBESTOS COMPANY LTD., was and is a Canadian corporation with its principal place of business in Canada. At all times material hereto, ATLAS TURNER INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos, asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, raw asbestos fibers sold to various manufacturers of asbestos products including, but not limited to, asbestos friction, drywall, fireproofing, and insulation products. ATLAS TURNER INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

31. Defendant, **AVON PRODUCTS, INC.**, was and is a New York corporation with its principal place of business in New York. At all times material hereto, AVON PRODUCTS, INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products, including, but not limited to, asbestos-containing Avon talc products used by Plaintiff and others living in the same household with Plaintiff. AVON PRODUCTS, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this

Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

32. Defendant, **BARRETT'S MINERALS INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, BARRETT'S MINERALS INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products, including, but not limited to, asbestos-containing Clubman talc products used by Plaintiff and others living in the same household with Plaintiff. BARRETT'S MINERALS INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

33. Defendant, **BLOCK DRUG COMPANY, INC.**, individually and as successor to THE GOLD BOND STERILIZING POWDER CO. a/k/a THE GOLD BOND CO., was and is a New Jersey corporation with its principal place of business in Pennsylvania. At all times material hereto, BLOCK DRUG COMPANY, INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products, including, but not limited to, asbestos-containing Gold Bond talc products used by Plaintiff and others living in the same household with Plaintiff. BLOCK DRUG COMPANY, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the

State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

34. Defendant, **BRENNTAG NORTH AMERICA, INC.**, individually and as successor-in-interest to MINERAL AND PIGMENT SOLUTIONS, INC., as successor-in-interest to WHITTAKER, CLARK & DANIELS, INC., was and is a Delaware corporation with its principal place of business in Pennsylvania. At all times material hereto, BRENNTAG NORTH AMERICA, INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Johnson & Johnson, Cashmere Bouquet talc products and Estee Lauder talc products, including but not limited to White Linen perfumed talc, used by others living in the same household with Plaintiff. BRENNTAG NORTH AMERICA, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

35. Defendant, **BRENNTAG SPECIALTIES, LLC** f/k/a BRENNTAG SPECIALTIES, INC. f/k/a MINERAL AND PIGMENT SOLUTIONS, INC., as successor-in-interest to WHITTAKER, CLARK & DANIELS, INC., was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, BRENNTAG SPECIALTIES, LLC was authorized to do business in the State of South Carolina

and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Johnson & Johnson, Cashmere Bouquet talc products and Estee Lauder talc products, including but not limited to White Linen perfumed talc, used by others living in the same household with Plaintiff. BRENNTAG SPECIALTIES, LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

36. Defendant, **BRISTOL-MYERS SQUIBB COMPANY**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, BRISTOL-MYERS SQUIBB COMPANY was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Ammens Medicated talc powder, used by Plaintiff and others living in the same household with Plaintiff. BRISTOL-MYERS SQUIBB COMPANY is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

37. Defendant, **C&S WHOLESALE GROCERS, LLC** f/k/a C&S WHOLESALE GROCERS, INC., individually and as successor-in-interest to FLEMING COMPANIES, INC. successor-in-interest to PIGGLY WIGGLY COMPANY, was and is a Delaware limited liability company with its principal place of business in New Hampshire. At all times material hereto, C&S WHOLESALE GROCERS, LLC was authorized to do business in the State of South Carolina engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Johnson & Johnson and Gold Bond talc products, purchased and used by Plaintiff. C&S WHOLESALE GROCERS, LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

38. Defendant, **CALVIN KLEIN INC.**, was and is a New York corporation with its principal place of business in New York. At all times material hereto, CALVIN KLEIN INC. was authorized to do business in the State of South Carolina engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Calvin Klein talc powder, used by others living in the same household with Plaintiff. CALVIN KLEIN INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective

products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

39. Defendant, **CHANEL INC.**, was and is a New York corporation with its principal place of business in New York. At all times material hereto, CHANEL INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Chanel talc products, including but not limited to Chanel No. 5 perfumed talc powder, used by others living in the same household with Plaintiff. CHANEL INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

40. Defendant, **CHARLES B. CHRYSTAL COMPANY, INC.**, was and is a New York corporation with its principal place of business in Connecticut. At all times material hereto, CHARLES B. CHRYSTAL COMPANY, INC. was authorized to do business in the State of South Carolina, Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Gold Bond talc products and Estee Lauder talc products, including but not limited to White Linen perfumed talc, used by Plaintiff and others living in the same household with Plaintiff. CHARLES B. CHRYSTAL COMPANY, INC. is sued as a Product Defendant. Furthermore, this Defendant has

done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

41. Defendant, **CHATTEM, INC.**, individually and as successor to MARTIN HIMMEL, INC., successor to BLOCK DRUG COMPANY INC., successor to THE GOLD BOND STERILIZING POWDER COMPANY a/k/a THE GOLD BOND COMPANY, successor to GOLD BOND PHARMACEUTICAL CORPORATION, was and is a Tennessee corporation with its principal place of business in New Jersey. At all times material hereto, CHATTEM, INC. was authorized to do business in the State of South Carolina, Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Gold Bond talc products used by Plaintiff and others living in the same household with Plaintiff. CHATTEM, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

42. Defendant, **COLGATE-PALMOLIVE COMPANY**, individually and as successor-in-interest to THE MENNEN COMPANY, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, COLGATE-PALMOLIVE COMPANY was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting,

compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Cashmere Bouquet talc products and Mennen talc products, used by others living in the same household with Plaintiff. COLGATE-PALMOLIVE COMPANY is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

43. Defendant, **COLOR TECHNIQUES, INC.**, was and is a New Jersey corporation with its principal place of business in New Jersey. At all times material hereto, COLOR TECHNIQUES, INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Cashmere Bouquet talc products, Estee Lauder talc products and Coty talc products, used by Plaintiff and others living in the same household with Plaintiff. COLOR TECHNIQUES, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

44. Defendant, **COTY INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, COTY INC. was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining,

designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Stetson talc products, used by Plaintiff and others living in the same household with Plaintiff. COTY INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

45. Defendant, **CVS HEALTH CORPORATION**, was and is a Delaware corporation with its principal place of business in Rhode Island. At all times material hereto, CVS HEALTH CORPORATION was authorized to do business in the State of South Carolina, Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Johnson & Johnson, Ammens, and Gold Bond talc products, purchased and used by Plaintiff. CVS HEALTH CORPORATION is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

46. Defendant, **CVS PHARMACY, INC.**, was and is a Rhode Island corporation with its principal place of business in Rhode Island. At all times material hereto, CVS PHARMACY, INC. was authorized to do business in the State of South Carolina and Florida while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing,

converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Johnson & Johnson, Ammens, and Gold Bond talc products, purchased and used by Plaintiff. CVS PHARMACY, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

47. Defendant, **EDC DRUG STORES, INC.**, f/k/a KERR DRUG STORES, INC., was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, EDC DRUG STORES, INC. was authorized to do business in the State of South Carolina engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Johnson & Johnson, Ammens, and Gold Bond talc products, purchased and used by Plaintiff. EDC DRUG STORES, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

48. Defendant, **ESTÉE LAUDER INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, ESTÉE LAUDER INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting,

compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Estee Lauder talc products, including but not limited to White Linen perfumed talc, used by others living in the same household with Plaintiff. ESTÉE LAUDER INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

49. Defendant, **ESTÉE LAUDER INTERNATIONAL, INC.**, individually and as successor to CLINIQUE, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, ESTÉE LAUDER INTERNATIONAL INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Estee Lauder talc products, including but not limited to White Linen perfumed talc, used by others living in the same household with Plaintiff. ESTÉE LAUDER INTERNATIONAL INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

50. Defendant, **THE ESTÉE LAUDER COMPANIES INC.**, individually and as successor to CLINIQUE, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, THE ESTÉE LAUDER COMPANIES INC. was

authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Estee Lauder talc products, including but not limited to White Linen perfumed talc, used by others living in the same household with Plaintiff. THE ESTÉE LAUDER COMPANIES INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

51. Defendant, **FOOD LION, LLC**, was and is a North Carolina limited liability company with its principal place of business in North Carolina. At all times material hereto, FOOD LION, LLC was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Johnson & Johnson, Ammens, and Gold Bond talc products, purchased and used by Plaintiff. FOOD LION, LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

52. Defendant, **GENUINE PARTS COMPANY**, d/b/a NATIONAL AUTOMOTIVE PARTS ASSOCIATION (NAPA), was and is a Georgia corporation with its principal place of

business in Georgia. At all times material hereto, GENUINE PARTS COMPANY was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing products, materials, or equipment including, but not limited to, asbestos-containing friction products, including but not limited to NAPA and Raylock brakes, and NAPA gaskets purchased and used by Plaintiff on his personal and family vehicles. GENUINE PARTS COMPANY is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

53. Defendant, **GLAMOUR INDUSTRIES CO.**, individually and as an S-corporation of AMERICAN INTERNATIONAL INDUSTRIES successor-in-interest to PINAUD, INC., BARBARA ALICE, INC., ED. PINAUD, INC. d/b/a ED. PINAUD, and NESTLE-LE MUR COMPANY, all for the CLUBMAN line of products, was and is a California corporation with its principal place of business in California. At all times material hereto, GLAMOUR INDUSTRIES CO. was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Clubman talc products used by Plaintiff and others living in the same household with Plaintiff. GLAMOUR INDUSTRIES CO. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and

distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

54. Defendant, **HAWTHORNE PHARMACY, INC.**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, HAWTHORNE PHARMACY, INC. was authorized to do business in the State of South Carolina engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Johnson & Johnson and Gold Bond talc products, purchased and used by Plaintiff. HAWTHORNE PHARMACY, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

55. Defendant, **HIMMEL MANAGEMENT CO. LLC** a/k/a HIMMEL GROUP, formerly d/b/a MARTIN HIMMEL INC., individually and as successor to BLOCK DRUG COMPANY INC., successor to THE GOLD BOND STERILIZING POWDER CO. a/k/a THE GOLD BOND CO., was and is a Florida limited liability company with its principal place of business in New York. At all times material hereto, HIMMEL MANAGEMENT CO. LLC was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not

limited to, asbestos-containing Gold Bond talc products, used by Plaintiff and others living in the same household with Plaintiff. HIMMEL MANAGEMENT CO. LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

56. Defendant, **HIMMEL MEDIA LLC.**, individually and as successor to BLOCK DRUG COMPANY INC., successor to THE GOLD BOND STERILIZING POWDER CO. a/k/a THE GOLD BOND CO., was and is a Delaware limited liability company with its principal place of business in New York. At all times material hereto, HIMMEL MEDIA LLC was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Gold Bond talc products, used by Plaintiff and others living in the same household with Plaintiff. HIMMEL MEDIA LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

57. Defendant, **HONEYWELL INTERNATIONAL, INC.**, individually and as successor-in-interest to ALLIED SIGNAL, INC., as successor to BENDIX CORPORATION, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, HONEYWELL INTERNATIONAL, INC. was authorized to do business in the

State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing products, materials, or equipment including, but not limited to, asbestos-containing friction products, including but not limited to Bendix brakes, purchased and used by Plaintiff on his personal and family vehicles. HONEYWELL INTERNATIONAL, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

58. Defendant, **IDELLE LABS, LTD.**, was and is a Texas corporation with its principal place of business in Texas. At all times material hereto, IDELLE LABS, LTD. was authorized to do business in the State of South Carolina and Florida while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Ammens Medicated talc powder, used by Plaintiff and others living in the same household with Plaintiff. IDELLE LABS, LTD. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

59. Defendant, **IMI FABI (DIANA) LLC**, was a North Carolina limited liability company with its principal place of business in West Virginia. At all times material hereto, IMI

FABI (DIANA) LLC was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc including, but not limited to, asbestos-containing talc fiber supplied to Estee Lauder talc products, used by others living in the same household with Plaintiff. IMI FABI (DIANA) LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

60. Defendant, **IMI FABI (USA) INC.**, was and is a Delaware corporation with its principal place of business in West Virginia. At all times material hereto, IMI FABI (USA) INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc including, but not limited to, asbestos-containing talc fiber supplied to Estee Lauder talc products, used by others living in the same household with Plaintiff. IMI FABI (USA) INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

61. Defendant, **IMI FABI, LLC**, was and is a West Virginia limited liability company with its principal place of business in West Virginia. At all times material hereto, IMI FABI, LLC

was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc including, but not limited to, asbestos-containing talc fiber supplied to Estee Lauder talc products, used by others living in the same household with Plaintiff. IMI FABI, LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

62. Defendant, **JANSSEN PHARMACEUTICALS, INC.**, individually and as successor-in-interest to Johnson & Johnson subsidiaries named JOHNSON & JOHNSON CONSUMER INC., both prior to and after its 2021 restructurings and colloquially known as "Old JJCI" and "New JJCI", was and is a Pennsylvania corporation with its principal place of business in New Jersey. At all times material hereto, JANSSEN PHARMACEUTICALS, INC. was authorized to do business in the State of South Carolina, Florida and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Johnson & Johnson Baby Powder and Shower to Shower talc products, used by Plaintiff and others living in the same household with Plaintiff. JANSSEN PHARMACEUTICALS, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this

Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

63. Defendant, **JOHNSON & JOHNSON**, was and is a New Jersey corporation with its principal place of business in New Jersey. At all times material hereto, JOHNSON & JOHNSON was authorized to do business in the State of South Carolina, Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Johnson & Johnson Baby Powder and Shower to Shower talc products, used by Plaintiff and others living in the same household with Plaintiff. JOHNSON & JOHNSON is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

64. Defendant, **JOHNSON & JOHNSON HOLDCO (NA) INC.**, f/k/a JOHNSON & JOHNSON CONSUMER INC., individually and as successor-in-interest to Johnson & Johnson subsidiary "Old JJCI", was and is a New Jersey corporation with its principal place of business in New Jersey. At all times material hereto, JOHNSON & JOHNSON HOLDCO (NA) INC. was authorized to do business in the State of South Carolina, Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Johnson & Johnson Baby Powder and Shower to Shower

talc products, used by Plaintiff and others living in the same household with Plaintiff. JOHNSON & JOHNSON HOLDCO (NA) INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

65. Defendant, **KENVUE INC.**, individually and as successor-in-interest to JOHNSON & JOHNSON CONSUMER INC., was and is a Delaware corporation with its principal place of business in New Jersey. At all times material hereto, KENVUE INC. was authorized to do business in the State of South Carolina, Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Johnson & Johnson Baby Powder and Shower to Shower talc products, used by Plaintiff and others living in the same household with Plaintiff. KENVUE INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

66. Defendant, **L'ORÉAL USA, INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, L'ORÉAL USA, INC. was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting,

compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Drakkar Noir talc powder, used by Plaintiff and others living in the same household with Plaintiff. L'ORÉAL USA, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

67. Defendant, **L'ORÉAL USA PRODUCTS, INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, L'ORÉAL USA PRODUCTS, INC. was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Drakkar Noir talc powder, used by Plaintiff and others living in the same household with Plaintiff. L'ORÉAL USA PRODUCTS, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

68. Defendant, **LTL MANAGEMENT, LLC**, is a North Carolina limited liability company with its principal place of business and headquarters in the State of New Jersey. Although other Defendants in this Complaint have acquired the assets and continued the business operations pertaining to Products, LTL MANAGEMENT, LLC is sued herein as the other Defendants have

each asserted as between themselves that LTL MANAGEMENT, LLC has also assumed the liabilities for those Products and claim that LTL MANAGEMENT, LLC is a party responsible and liable to Plaintiff for their injuries as it relates to Johnson & Johnson Baby Powder, Shower to Shower and possibly other talc products used by Plaintiff in the State of South Carolina, Florida and Illinois. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

69. Defendant, **MINERALS TECHNOLOGIES INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, MINERALS TECHNOLOGIES INC. was authorized to do business in the State of South Carolina Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products, including, but not limited to, asbestos-containing talc fiber supplied to Clubman talc products and Gold Bond talc products, used by Plaintiff and others living in the same household with Plaintiff. MINERALS TECHNOLOGIES INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

70. Defendant, **THE NESLEMUR COMPANY**, f/k/a THE NESTLE-LEMUR COMPANY, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, THE NESLEMUR COMPANY was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing,

replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing talc fiber supplied to Clubman talc products, used by Plaintiff and others living in the same household with Plaintiff. THE NESLEMUR COMPANY is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

71. Defendant, **PFIZER INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PFIZER INC. was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing talc fiber supplied to Coty talc products, including but not limited to Stetson talc products, used by Plaintiff and others living in the same household with Plaintiff. PFIZER INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

72. Defendant, **PIGGLY WIGGLY, LLC**, a subsidiary of C&S WHOLESALE GROCERS, LLC., individually and as successor-in-interest to FLEMING COMPANIES, INC. successor-in-interest to PIGGLY WIGGLY COMPANY, was and is a New Hampshire limited liability company with its principal place of business in New Hampshire. At all times material

hereto, PIGGLY WIGGLY, LLC was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Johnson & Johnson, Ammens and Gold Bond talc products, purchased and used by Plaintiff. PIGGLY WIGGLY, LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

73. Defendant, **PNEUMO ABEX LLC**, individually and as successor-in-interest to ABEX CORPORATION, was and is a Delaware limited liability company with its principal place of business in Texas. At all times material hereto, PNEUMO ABEX LLC was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing products, materials, or equipment including, but not limited to, asbestos-containing friction products, including but not limited to Abex/Raylock brakes, purchased and used by Plaintiff on his personal and family vehicles. PNEUMO ABEX LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

74. Defendant, **PRESERSE CORPORATION**, was and is a Delaware corporation with its principal place of business in New Jersey. At all times material hereto, PRESERSE CORPORATION was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products, including, but not limited to, asbestos-containing talc fiber supplied to Avon, Chanel, Coty and Estee Lauder for use in their talc products used by Plaintiff and others living in the same household with Plaintiff. PRESERSE CORPORATION is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

75. Defendant, **THE PROCTER & GAMBLE COMPANY**, individually and as successor-in-interest to SHULTON INC., was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, THE PROCTER & GAMBLE COMPANY was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products, including, but not limited to, asbestos-containing Old Spice talc products and Ammens Medicated talc powder, used by Plaintiff and others living in the same household with Plaintiff. THE PROCTER & GAMBLE COMPANY is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its

dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

76. Defendant, **PTI ROYSTON, LLC** d/b/a PHARMA TECH INDUSTRIES f/k/a PHARMA TECH INDUSTRIES, INC. f/k/a BLACK CREEK CORPORATION, was and is a Delaware limited liability company with its principal place of business in Georgia. At all times material hereto, PTI ROYSTON, LLC was authorized to do business in the State of South Carolina Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing Johnson & Johnson Baby Powder and Shower to Shower talc products, used by Plaintiff and others living in the same household with Plaintiff. PTI ROYSTON, LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

77. Defendant, **PTI UNION LLC** d/b/a PHARMA TECH INDUSTRIES, individually and as successor-in-interest to PHARMA TECH INDUSTRIES, INC. f/k/a BLACK CREEK CORPORATION, as successor-in-interest to DIRECT PHARMACEUTICAL CORPORATION and as successor-in interest to ENVI DIVERSIFIED, INC. f/k/a PHARMA-TECH INDUSTRIES, INC., was and is a Delaware limited liability company with its principal place of business in Missouri. At all times material hereto, PTI UNION LLC was authorized to do business in the State of South Carolina, Florida and Illinois while engaged, directly or indirectly, in the business of

mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, asbestos-containing talc fiber supplied, distributed and/or manufactured for Gold Bond talc products and Ammens Medicated talc powder, used by Plaintiff and others living in the same household with Plaintiff. PTI UNION LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

78. Defendant, **RALPH LAUREN CORPORATION**, was and is a Delaware corporation with its principal place of business in New Jersey. At all times material hereto, RALPH LAUREN CORPORATION was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, asbestos-containing Polo talc powder, used by Plaintiff and others living in the same household with Plaintiff. RALPH LAUREN CORPORATION is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

79. Defendant, **RITE AID OF SOUTH CAROLINA, INC.**, was and is a South Carolina corporation with its principal place of business in Pennsylvania. At all times material

hereto, RITE AID OF SOUTH CAROLINA, INC. was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Gold Bond, Johnson & Johnson, Shower to Shower, Stetson, Old Spice, Ammens, and Clubman, purchased and used by Plaintiff and others living in the same household with Plaintiff. RITE AID OF SOUTH CAROLINA, INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

80. Defendant, **SHULTON INC.**, was and is an New Jersey corporation with its principal place of business in Ohio. At all times material hereto, SHULTON INC. was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products, including, but not limited to, asbestos-containing Old Spice talc products used by Plaintiff and others living in the same household with Plaintiff. SHULTON INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

81. Defendant, **SPECIALTY MINERALS INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, SPECIALTY MINERALS INC. was authorized to do business in the State of South Carolina, Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products, including, but not limited to, asbestos-containing talc fiber supplied, distributed and/or manufactured for to Gold Bond, Clubman and Coty talc products used by Plaintiff and others living in the same household with Plaintiff. SPECIALTY MINERALS INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

82. Defendant, **SUMITOMO CORPORATION OF AMERICAS**, was and is a Delaware corporation with its principal place of business in New Jersey. At all times material hereto, SUMITOMO CORPORATION OF AMERICAS was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products, including, but not limited to, asbestos-containing talc fiber supplied to Avon, Chanel, Coty and Estee Lauder for use in their talc products used by Plaintiff and others living in the same household with Plaintiff. SUMITOMO CORPORATION OF AMERICAS is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its

dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

83. Defendant, **TRUE PHARMACY**, was and is a South Carolina company with its principal place of business in South Carolina. At all times material hereto, TRUE PHARMACY was authorized to do business in the State of South Carolina engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Johnson & Johnson and Gold Bond talc products, purchased and used by Plaintiff. TRUE PHARMACY is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

84. Defendant, **UNION CARBIDE CORPORATION**, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, UNION CARBIDE CORPORATION was authorized to do business in the State of South Carolina and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc and/or asbestos-containing talc products including, but not limited to, Calidria asbestos fibers sold to US Gypsum, National Gypsum, Gold Bond, Georgia Pacific, Kelly Moore and others, for use in drywall joint compounds and other construction materials. UNION CARBIDE CORPORATION is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of

South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

85. Defendant, **VI-JON, LLC** f/k/a VI-JON, INC. f/k/a CUMBERLAND SWAN, was and is a Delaware limited liability company with its principal place of business in Missouri. At all times material hereto, VI-JON, LLC was authorized to do business in the State of South Carolina Florida and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc sold and bottled for Walgreens and other retailers of talc products including, but not limited to, Gold Bond, Johnson & Johnson, Shower to Shower, Stetson, Old Spice, Ammens, and Clubman, purchased and used by Plaintiff and others living in the same household with Plaintiff. VI-JON, LLC is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

86. Defendant, **WALGREEN CO.**, was and is an Illinois corporation with its principal place of business in Illinois. At all times material hereto, WALGREEN CO. was authorized to do business in the State of South Carolina, Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Gold Bond, Johnson & Johnson, Shower to Shower, Stetson, Old Spice, Ammens, and Clubman, purchased and used by Plaintiff and others living in the same household with Plaintiff. WALGREEN CO. is sued as a

Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

87. Defendant, **WALMART INC.**, was and is a Delaware corporation with its principal place of business in Arkansas. At all times material hereto, WALMART INC. was authorized to do business in the State of South Carolina, Florida, and Illinois while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos-containing talc products including, but not limited to, Gold Bond, Johnson & Johnson, Shower to Shower, Stetson, Old Spice, Ammens, and Clubman, purchased and used by Plaintiff and others living in the same household with Plaintiff. WALMART INC. is sued as a Product Defendant. Furthermore, this Defendant has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiff Michael L. Perry's disease and injury.

BACKGROUND FACTS

88. Plaintiff Michael L. Perry brings this action for monetary damages as a result of contracting an asbestos-related disease.

89. Plaintiff Michael L. Perry was diagnosed with Mesothelioma on or about July 7, 2023.

90. Plaintiff Michael L. Perry's mesothelioma was caused by his exposure to asbestos through his personal use, and his family's use, of asbestos-containing Talc Powder Products where asbestos-containing talc was a constituent ingredient throughout his life.

91. During his work history, Plaintiff was exposed to Defendants' asbestos-containing construction materials removed and replaced as a bystander to construction work and remodel performed in some of the hotels where he worked in various capacities of employment and management from approximately mid 1980s to approximately 1998 and in the early 2000s. These facilities were located in South Carolina and Illinois.

92. Plaintiff also was exposed to Defendants' asbestos-containing friction products during various times throughout his life while performing maintenance and changing the brakes on his personal vehicles and his family's vehicles from approximately 1984-1987. These activities exposed Plaintiff to asbestos, asbestos dust and fibers.

93. Plaintiff Michael L. Perry used, or had used on him by his parents and grandparents, the Talc Powder Products from 1969 continuously until approximately 2018, but does not know the precise date he stopped. He frequently and regularly dusted the Talc Powder Products on various parts of his body which at varying times may have included amongst other areas: neck, shoulders, collarbones, chest, arms, armpits, legs, genital area, and feet. During this time he repeatedly inhaled, ingested, and was regularly exposed to asbestos dust emanating from the asbestos laden talc within the Talc Powder Products permeating his person and clothes in his Illinois, Florida and South Carolina homes. All of these activities exposed Plaintiff to asbestos, asbestos dust and fibers.

94. Plaintiff also claims exposure from the Defendant talc suppliers, mines, mills, and labs named in his complaint that provided asbestos-containing talc as a constituent ingredient to the Talc Powder Products that he used.

95. Each use of the Talc Powder Products was an intended and foreseeable use of the products based on the advertising, marketing and labeling of the product. It was foreseeable Defendants' asbestos-containing talc products would be sold for personal use by individuals like

Plaintiff Michael L. Perry on himself. Plaintiff was thereby exposed to defendants' asbestos-containing Talc Powder Products in the State of South Carolina and other states at times relevant to this action.

96. Plaintiff Michael L. Perry's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff Michael L. Perry's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

97. Plaintiff Michael L. Perry was not aware at the time of exposure that asbestos or asbestos-containing talc products presented any risk of injury and/or disease.

98. Plaintiffs have been informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

99. As a direct and proximate result of the conduct as alleged within, Plaintiff Michael L. Perry suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

100. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Michael L. Perry incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff Michael L. Perry's medical treatment is ascertained.

101. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiffs incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs request leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiffs Complain of Defendants for a Cause of Action for Negligence Alleging as Follows:

102. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

103. At all times herein mentioned, each of the named Defendants was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos-containing talc products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry on himself. Plaintiff was thereby exposed to Defendants’ asbestos-containing talc products in the State of South Carolina.

104. At all times herein mentioned, Defendants, and/or their “alternate entities” singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn

of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, distributed, bought, offered for sale, supplied, sold, inspected, marketed, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos-containing talc products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry, in that said products caused personal injuries to Plaintiff Michael L. Perry and others similarly situated, (hereinafter collectively called “exposed persons”), while being used for their intended purpose and in a manner that was reasonably foreseeable.

105. The asbestos and asbestos-containing talc products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos and asbestos-containing talc products from causing Plaintiff Michael L. Perry’s mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff’s lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their “alternate entities.” Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or their “alternate entities.” The gravity of the potential harm resulting from the use of Defendants’ asbestos or asbestos-containing talc products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Plaintiff Michael L. Perry. Defendants and/or their “alternate entities” had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants, each of them, breached said duty of due care.

106. Defendants, and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and asbestos-containing talc products would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for personal use by individuals like Plaintiff Michael L. Perry on himself, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Plaintiff Michael L. Perry, would use or be in proximity to and exposed to said asbestos fibers.

107. At all times relevant, Defendants and/or their “alternate entities” were aware of their asbestos and asbestos-containing talc products’ defect but failed to adequately warn Plaintiff Michael L. Perry, Plaintiff’s family members or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed to recall or retrofit their products. A reasonable manufacturer, distributor, or seller of Defendants’ products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

108. Plaintiff Michael L. Perry, Plaintiff’s family members and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein in a manner that was reasonably foreseeable. Plaintiff’s exposure to asbestos and asbestos-containing talc products occurred at various locations as set forth in this Complaint.

109. Plaintiff Michael L. Perry suffers from mesothelioma, a cancer related to exposure to asbestos and asbestos-containing products. Plaintiff Michael L. Perry was not aware at the time of exposure that asbestos or asbestos-containing talc products presented any risk of injury or disease.

110. Defendants' conduct and defective products as described in this cause of action were a direct cause of Plaintiff Michael L. Perry's injuries, and all damages thereby sustained by Plaintiff Michael L. Perry. Plaintiffs therefore seek all compensatory damages in order to make them whole, according to proof.

111. Furthermore, the conduct of Defendants and/or their "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiff Michael L. Perry and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Plaintiff and others similarly situated.

112. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, distributing, buying, offering for sale, supplying, selling, inspecting, servicing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos-containing talc products or products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry, Defendants and/or their "alternate entities" did so with conscious disregard for the safety of "exposed persons" who came in contact with asbestos and asbestos-containing talc products, in that Defendants and/or their "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing talc products or products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry, including, but not limited to, asbestosis, mesothelioma, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their "alternate entities."

113. Defendants and their "alternate entities" were aware that members of the general public and other "exposed persons," who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-

containing talc products, or products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry, could cause injury, and Defendants, and their “alternate entities,” each of them, knew that members of the general public and other “exposed persons,” who came in contact with asbestos-containing talc products or products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry, would assume, and in fact did assume, that exposure to asbestos-containing talc products was safe, when in fact said exposure was extremely hazardous to health and human life.

114. The above-referenced conduct of Defendants, and their “alternate entities,” was motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing, uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, distribution, purchase, offer for sale, supply, sale, inspection, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos-containing talc products and products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry. Defendants, their “alternate entities,” and each of them consciously disregarded the safety of “exposed persons” in pursuit of profit. Defendants were consciously willing and intended to permit asbestos-containing talc products to cause injury to “exposed persons” without warning them of the potential hazards and further induced persons to use and be exposed thereto, including Plaintiff Michael L. Perry.

115. Plaintiff Michael L. Perry and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos-containing talc products, and products manufactured for foreseeable personal use by individuals like Plaintiff. The dangers inherent in the use of these products were not readily recognizable by Plaintiff Michael L. Perry or other exposed persons. Defendants and/or their “alternate entities” further failed to adequately warn of the risks to which Plaintiff and others similarly situated were exposed.

116. Defendants and/or their “alternate entities” are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their “alternate entities” as set forth herein.

117. The herein-described conduct of Defendants and their “alternate entities,” was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiffs, for the sake of example and by way of punishing said Defendants, seek punitive damages according to proof against all defendants.

FOR A SECOND CAUSE OF ACTION

(Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

118. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

119. Plaintiff Michael L. Perry suffered from mesothelioma, a cancer related to exposure to asbestos, asbestos-containing talc products and products manufactured for foreseeable personal use by individuals like Plaintiff. Plaintiff Michael L. Perry was not aware at the time of exposure that asbestos or asbestos-containing talc products presented any risk of injury and/or disease.

120. The Products Defendants’ conduct and defective products as described above were a direct cause of Plaintiff Michael L. Perry’s injuries, and the injuries and damages thereby sustained by Plaintiffs.

121. Furthermore, the Defendants’ conduct and that of their “alternate entities” in continuing to market and sell products which they knew were dangerous to Plaintiff Michael L. Perry and the public without adequate warnings or proper use instructions, was done in a conscious

disregard and indifference to the safety and health of Plaintiff Michael L. Perry and others similarly situated.

122. Defendants and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for personal use by individuals like Plaintiff Michael L. Perry, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling, “exposed persons,” including Plaintiff, would use or be in proximity to and exposed to said asbestos fibers.

123. Plaintiff Michael L. Perry, Plaintiff’s family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry, referred to herein in a manner that was reasonably foreseeable. Plaintiff Michael L. Perry’s exposure to asbestos, asbestos-containing talc products, and products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry occurred at various locations as set forth in this Complaint.

124. Defendants and/or their “alternate entities” knew and intended that the above-referenced asbestos and asbestos-containing talc products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

125. The asbestos and asbestos-containing talc products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos, asbestos-containing talc

products, and products manufactured for foreseeable personal use by individuals from causing Plaintiff Michael L. Perry's mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff's lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing talc products of Defendants and/or their "alternate entities." The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing talc products, and the likelihood such harm would occur, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

126. The defect existed in the said products at the time they left the possession of defendants and/or their "alternate entities," and each of them. Said products were intended to reach the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including mesothelioma, asbestosis, other lung damage, and cancer to "exposed persons," including Plaintiff Michael L. Perry herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

127. Plaintiff Michael L. Perry and other exposed persons did not know of the substantial danger of using Defendants' asbestos, asbestos-containing talc products, or products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry. The dangers inherent in the use of these products were not readily recognizable by Plaintiff or other exposed persons. Said Defendants and/or their "alternate entities" further failed to adequately warn of the risks to which Plaintiff Michael L. Perry and others similarly situated were exposed.

128. Defendants' defective products as described above were a direct cause of Plaintiff Michael L. Perry's injuries, and the damages thereby sustained.

129. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, distributing, buying, offering for sale, supplying, selling, inspecting, servicing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos, asbestos-containing talc products, and products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry, Defendants and/or their "alternate entities," and each of them, did so with conscious disregard for the safety of Plaintiff and other exposed persons who came in contact with the asbestos, asbestos-containing talc products, and products manufactured for foreseeable personal use by individuals, in that Defendants and/or their "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing talc products or products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry, including, but not limited to, mesothelioma, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their "alternate entities."

130. Defendants and/or their "alternate entities" were aware that members of the general public and other exposed persons, who would come in contact with their asbestos and asbestos-containing talc products, had no knowledge or information indicating that asbestos or asbestos-containing talc products or products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry could cause injury. Defendants and/or their "alternate entities" further knew that members of the general public and other exposed persons, who came in contact with asbestos, asbestos-containing talc products, and products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry would assume, and in fact did assume, that

exposure to asbestos and asbestos- containing products was safe, when in fact exposure was extremely hazardous to health and human life.

131. The above-referenced conduct of Defendants and/or their “alternate entities” motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, distribution, purchase, offer for sale, supply, sale, inspection, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing talc products, and products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry. Defendants and/or their “alternate entities” consciously disregarded the safety of “exposed persons” in their pursuit of profit and in fact consciously intended to cause injury to Plaintiff Michael L. Perry and other exposed persons and induced persons to use, be exposed to, and thereby injured by asbestos, asbestos-containing talc products, and products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry.

132. Defendants are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of their “alternate entities” as set forth herein.

133. The conduct of said defendants, their “alternate entities,” and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons. Plaintiffs, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against all defendants.

134. At all times herein mentioned, each of the named Defendants, and/or their “alternate entities,” was an entity and/or the successor, successor in business, successor in product

line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, distributing, buying, offering for sale, supplying, selling, inspecting, servicing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely products containing asbestos and talc products manufactured for foreseeable personal use by individuals like Plaintiff Michael L. Perry.

FOR A THIRD CAUSE OF ACTION
(Negligence Per Se)

As a Third Distinct Cause of Action for Negligence Per Se, Plaintiffs Complain of Defendants, and Allege as Follows:

135. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

136. The actions of Defendants also constituted negligence per se.

137. Defendants violated federal and state regulations relating to asbestos exposure. Such violations constitute negligence per se or negligence as a matter of law. Further, each such violation resulted in dangerous and unlawful exposures to asbestos for Plaintiff Michael L. Perry. Plaintiffs are not making any claims under federal law; instead, Plaintiffs are simply using the violation of federal standards as proof of liability on their state-law theories. Further, the reference to Federal regulations does not create a federal question. See Merrell Dow Pharms., Inc. v. Thompson, 478 U.S. 804 (1986). Any removal on this basis will be met with an immediate motion for remand and for sanctions.

138. The negligence per se of Defendants was a proximate cause of Plaintiff Michael L. Perry’s injuries.

FOR A FOURTH CAUSE OF ACTION

(Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314)

As a Fourth Distinct Cause Of Action for Breach of Implied Warranties, Plaintiffs Complain of Defendants and Allege as Follows:

139. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

140. Each of the Defendants and/or their “alternate entities” impliedly warranted that their asbestos materials or asbestos-containing talc products were of good and merchantable quality and fit for their intended use.

141. The implied warranty made by the Defendants and/or their “alternate entities” that the asbestos and asbestos-containing talc products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Plaintiff Michael L. Perry used the talc products and was inhaled by Plaintiff Michael L. Perry.

142. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Plaintiff Michael L. Perry was exposed to Defendants’ asbestos, asbestos-containing talc products, and/or products manufactured for personal use by individuals like Plaintiff Michael L. Perry and consequently developed mesothelioma, causing Plaintiffs to suffer all damages attendant thereto.

FOR A FIFTH CAUSE OF ACTION

(Fraudulent Misrepresentation)

For a Fifth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendants, and Allege as Follows:

143. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

144. That during, before and after Plaintiff Michael L. Perry’s exposure to asbestos products manufactured by Defendants and/or their “alternate entities”, the Defendants and/or their

“alternate entities” falsely represented facts, including the dangers of asbestos exposure to Plaintiff Michael L. Perry in the particulars alleged in the paragraphs above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiff Michael L. Perry. At the same time of these misrepresentations, Defendants each knew of the falsity of their representations and/or made the representations in reckless disregard of their truth or falsity.

145. The foregoing representations were material conditions precedent to Plaintiff Michael L. Perry’s continued exposure to asbestos-containing talc products. Defendants and/or their “alternate entities” each intended that Plaintiff Michael L. Perry act upon the representations by continuing his personal use of, and thereby exposure to, the asbestos-containing talc products. Plaintiff Michael L. Perry was ignorant of the falsity of Defendants’ representations and rightfully relied upon the representations.

146. As a direct and proximate result, Plaintiff Michael L. Perry’s reliance upon Defendants’ false representations, Plaintiff has suffered injury and damages as described herein.

FOR A SIXTH CAUSE OF ACTION

(Fraudulent Misrepresentation and Conspiracy/Concert Action as to Talc Manufacturers, Miners, Millers, Sellers, Compounders, and Distributors)

For a Sixth Distinct Cause of Action for Fraudulent Misrepresentation and Conspiracy/Concert Action, Plaintiffs Complain of Talc Defendants, and Allege as Follows:

147. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

148. For decades, defendants manufactured products composed of talc that were sold and marketed as safe for daily use by consumers on their person to give off a pleasant smell, mask odors, prevent chaffing and/or absorb moisture. Defendants’ products were advertised as healthful for babies, children and adults and to be applied regularly to maintain freshness, keep skin soft, mask odors with a floral fragrance, prevent chaffing and/or absorb moisture.

149. Defendants and the Cosmetic, Toiletry & Fragrance Association (n/k/a Personal Care Products Council) (“CTFA”) made false statements to plaintiff, the general public, news media and government agencies that exercise regulatory authority over the cosmetic industry, including, but not limited to, the U.S. Food & Drug Administration (“FDA”), the National Institute of Occupational Health and Safety (“OSHA”), the National Institute for Occupational Safety and Health (“NIOSH”), the Mine Health and Safety Administration (“MHS”), and the National Toxicology Program (“NTP”), which, in turn, proximately caused plaintiff’s harm through intentional efforts to deceive the general public as to the safety of and presence of carcinogens, including asbestos, in talc-containing products.

150. Defendants and CTFA, for decades before Plaintiff Michael L. Perry was born, possessed medical and scientific data that raised concerns regarding the presence of carcinogens, including asbestos, in talc and that demonstrated the existence of health hazards to those exposed to asbestos-containing talcum powder products.

151. Talc is a hydrous magnesium silicate, inorganic material that is mined from the earth. It is used in the manufacture of goods, such as paper, plastic, paint and coatings, rubber, food, electric cable, ceramics, and cosmetics. In its loose form and as used in defendants’ products, talc is known as “talcum powder.”

152. Geologists, Defendants and CTFA—and their suppliers, experts, agents and advisors—have long known that the deposits in the earth that are associated with talc are also associated with the formation of asbestos. “Asbestos” is a commercial and legal term, rather than a geologic or scientific term, referring to six now-regulated magnesium silicate minerals that occur in fibrous form, including the serpentine mineral chrysotile, and amphibole minerals such as actinolite, anthophyllite, tremolite, amosite and crocidolite. The United States Geological Survey on Commercial Talc production in 1965, as well as those dating back to the 1800s, note the

presence of tremolite, anthophyllite and chrysotile commonly among those minerals found within talc deposits.

153. Defendants, some of which have been and still are the largest talc producers and/or talc-containing product manufactures in the world, admit that they have long employed and/or consulted with doctors, scientists, geologists, mineralogists and toxicologists, and that they have long maintained extensive medical and scientific libraries and archives containing materials relating to the health hazards of talc and the presence of carcinogens, including asbestos, in talc and talc deposits.

154. Beginning in the 1930s, medical and scientific literature emerged indicating talc was commonly, if not invariably, contaminated with substances known or suspected of being carcinogenic, such as asbestos, silica, quartz, nickel and arsenic. Within the next several decades, an ever-growing body of medical and scientific literature demonstrated that direct and secondary exposure to talc, including asbestos-containing talc, was hazardous to exposed persons' health in that it could cause lung disease, cancer and death.

155. Defendants and their affiliates, employees, agents and/or suppliers were members of the National Safety Council. In March of 1933, Waldemar C. Dreesen of the United States Public Health Service reported to the National Safety Council the results of a study conducted among tremolite, talc and slate workers. The study indicated that the talc was a hydrous calcium magnesium silicate, being 45% talc and 45% tremolite, and the National Safety Council stated, "The results of the study seemed to indicate a relationship between the amount of dust inhaled and the effect of this dust on the lungs of the workers." As early as 1934, the National Safety Council was publishing that "a cause of severe pulmonary injury is asbestos, a silicate of magnesium." In the September 1935 issue of National Safety News, an article entitled "No Halfway Measures in Dust Control" by Arthur S. Johnson reported lowered lung capacity resulting from "asbestosis"

and “similar conditions” that developed “from exposure to excess of many mineral dusts relatively low in free silica content.” The article further noted that claims for disabilities from workers who alleged exposure to “clay, talc, emery, and carborundum dusts” had “claims prosecuted successfully.” The article concluded that “[i]n the absence of adequate diagnoses, occupational histories and a more satisfactory method of adjudicating claims than prosecution at common law, we must conclude that it is necessary to find a practical method for controlling all mineral dusts.”

156. In 1936, the National Safety Council published an article entitled “Lesser Known Facts About Occupational Diseases” that found “exposure to asbestos fibers, present in the weaving and grinding of dry asbestos material, offers another type of dust which may cause fatalities among workers.” In 1958, The New York Department of Labor published Industrial Code Rule No. 12 establishing regulations applying to all employees and employers relating to dangerous air contaminants and listing both asbestos and talc as such substances.

157. In 1968, a study presented at the American Industrial Hygiene Conference & Exposition and published in the American Industrial Hygiene Association Journal concluded that “[a]ll of the 22 talcum products analyzed have a...fiber content...averaging 19%. The fibrous material was predominantly talc but contained minor amounts of tremolite, anthophyllite, and chrysotile as these are often present in fibrous talc mineral deposits...Unknown significant amounts of such materials in products that may be used without precautions may create an unsuspected problem.” L. J. Cralley, et al., Fibrous and Mineral Content of Cosmetic Talcum Products, 29 Am. Ind. Hyg. Assoc. J. 350-354 (1968). Defendants were aware of these findings.

158. In 1968, a scientific study of store-bought, commercially available talcum powders conducted by the Occupational Health Program, National Center for Urban Industrial Health, was published and presented by the American Industrial Hygiene Association. Defendants were aware of this study. The study revealed that, contrary to popular belief, talcum powders were not entirely

pure, but rather contained various fibrous minerals, including tremolite, anthophyllite and chrysotile. The study explained that such fibrous content was not unexpected because these types of fibers are often present in fibrous talc mineral deposits. Available documents indicate that during the same year and in the years following, at least one company began testing store-bought talcum powders for asbestos content. Despite tests showing some talcum powders contained asbestos, there is no evidence that positive results or the brand names of contaminated products were communicated to any governmental agency, the media or the public.

159. A 1976 follow-up study conducted by researchers at Mount Sinai Hospital in New York concluded that “[t]he presence in these products of asbestiform anthophyllite and tremolite, chrysotile, and quartz indicates the need for a regulatory standard for cosmetic talc...We also recommend that evaluation be made to determine the possible health hazards associated with the use of these products.” Rohl A.N., et al., *Consumer Talcums and Powders: Mineral and Chemical Characterization*, 2 J. Toxicol. Environ. Health 255-284 (1976). The Mount Sinai study results were published by various newspapers, including the New York Times and the Washington Post, and Defendants were aware of same.

160. In the early 1970s, the FDA began an inquiry into whether to regulate and require warnings on talc-containing products. Defendants and CTFA, an exclusive lobbying and advocacy group representing companies engaged in the cosmetic products industry, repeatedly conspired and worked in concert to block efforts to label and warn consumers regarding the dangers (including asbestos hazards) associated with cosmetic talcum powder products, such as Defendants’ products.

161. In 1971, the New York City of Environmental Protection Administration Air Resources Board conducted a study of two “leading” brands of talcum powder using transmission

electron microscopy (“TEM”) and X-ray diffraction (“XRD”) analysis, and found them to contain 5-25% tremolite and anthophyllite asbestos.

162. Soon thereafter, a symposium was held in August of 1971 at the FDA to discuss the issue of asbestos content of talcum powders with the talc industry, government officials, and doctors and scientists from Mt. Sinai Hospital, which was then the epicenter of the medical and scientific study of asbestos. Among other statements, participants and attendees heard: that asbestos should be banned in talcum powders; models should be set up to measure the levels exposure to asbestos experienced by persons using talcum powder containing asbestos at the lowest level of microscopic detection; and that finding asbestos in talc and talcum powder is extremely difficult, and the only truly reliable way to determine the asbestos content of talc and talcum powder is through TEM and electron diffraction. Defendants and CTFA, aware of the foregoing and citing costs as well as their fear of the public learning talc was contaminated with asbestos, ignored and completely rejected any measures to meaningfully test talc products to make sure they were free from asbestos and other carcinogens.

163. After this 1971 symposium, Dr. Weissler of the FDA hired Dr. Seymour Z. Lewin to test commercially available talcum powders for asbestos. Dr. Lewin tested 195 samples and found asbestos of varying amounts in 43. Many of Dr. Lewin’s positive results were eventually corroborated by Pfizer Inc. The results, however, were uncorroborated by two other laboratories, leading the FDA to the conclusion that XRD, optical and electron microscopy, and electron diffraction must be used to detect asbestos in talc and talcum powders.

164. Dr. Lewin of New York University disclosed twice in 1972 that asbestos had been found in cosmetic talc. In a report to the FDA on August 3, 1972, Dr. Lewin reported that of 195 talc products, 20 had tremolite, 7 had chrysotile, 9 had both tremolite and chrysotile, and 7 had substantial percentages of one of both. XRD had been used as the first step in analysis and the

presence of asbestos and was verified by the use of optical microscopy to disclose the presence of significant numbers of fibers. Shortly thereafter, Dr. Lewin reported to Whittaker, Clark & Daniels Inc. on September 30, 1972, that Italian talc 1615 contained about 2% tremolite and 0.5% chrysotile as determined with XRD and detailed microscopic exam. In a July 31, 1973, review of Dr. Lewin's testing of 195 talc samples, the FDA found "good semi-quantitative agreement" for tremolite on selected samples re-analyzed using optical microscope analysis by FDA and XRD by Pfizer. Agreement was not as good for chrysotile, but the review did warn that optical microscopy could "completely miss the presence of chrysotile if the fibers are submicroscopic, which may well be the case in finely-milled talc." In 1972, ES Laboratories reported that "1615" talc contained 1% chrysotile and that "4615" talc contained 3% chrysotile and 3% anthophyllite. An August 23, 1973, report by Johns-Manville on TEM analysis of commercial talcs reported that nine of fourteen samples contained chrysotile. Only five samples did not have detectable levels of chrysotile. Pages from the laboratory notebook of Colgate-Palmolive Co. scientist Paul Briscese from March 7, 1976, show that Old Regal (North Carolina) talc tested positive for tremolite, New Montana talc tested positive for anthophyllite and tremolite, and Italian talc tested positive for tremolite.

165. A December 10, 1973, report of the CTFA's Talc Subcommittee disclosed that optical microscope analyses of talcs from the Italian, Montana I & II, Alabama, Vermont, and North Carolina mines had failed the proposed FDA's method because of elevated chrysotile concentrations. This December 10, 1973, CTFA report also showed that several laboratories had reported chrysotile in many of the talc samples sent by the CTFA for evaluation of analytical methods as well as the several identifications of asbestos in talc mentioned.

166. In the early 1970s, the FDA began an inquiry into whether to regulate and require warnings on consumer talcum powder products. CTFA, an exclusive lobbying and advocacy group representing companies engaged in the cosmetic products industry, including many of the

Defendants herein, repeatedly conspired and worked in concert to block efforts to label and warn consumers regarding the dangers associated with cosmetic talcum powder products, such as Defendants' products. On September 3, 1973, the FDA sent CTFA a letter regarding various means of measuring asbestos in talc, stating that "conventional methods employing X-ray diffraction or differential thermal analysis are not sufficiently reliable to produce quantitative results of the desired precision." The FDA further advised CTFA that it "has been exploring refractory optical microscopy as a means of measuring asbestos in talc." CTFA responded to the FDA's public notice on its proposed optical microscopy method on December 26, 1973. CTFA contended that the proposed method was not "reliable" for the detection of asbestos in talc, recommended a "collaborative effort between FDA and industry to develop such a method," and urged deferment of the proposed rule. Minutes of CTFA's Talc Subcommittee meeting on March 15, 1976, indicate that the FDA's "Dr. Shaffner suggested the possibility of having industry report periodically on the results of its analysis to the FDA." Dr. Estrin of CTFA responded that "the subcommittee would give serious consideration to this suggestion."

167. Contemporaneously, evidence began to emerge from testing conducted by various regulatory agencies revealing that asbestos was being found in food, beer and drugs, including intravenously injected medicines. In 1972, and later in 1973, the FDA filed notices of proposed rulemaking requiring talc used in food, food packing and drugs to be completely free of asbestos. These were some of the same "grades" of talc used by Defendants.

168. The talc industry's response, including that of the defendants, was swift and well-coordinated through CTFA, with which the defendants conspired and worked in concert to purposely create a flawed, voluntary testing and surveillance methodology for detecting asbestos in talc and block efforts to label and warn consumers regarding the dangers associated with the talc products, including defendants' products.

169. Regarding the FDA's proposed 1972 rule-making, the FDA Director of Product Development and Cosmetics, Dr. Schaffner, invited representatives of the talc industry to a meeting in August of 1972 to discuss the results of Dr. Lewin's study and inform them that the FDA was preparing to release a "Proposed Statement of Policy On Asbestos in Cosmetics Containing Talc." Dr. Schaffner explained that he was duty-bound and must publicize the brand names of the talcum powders that contained asbestos. CTFA's president, Dr. Merritt, strongly objected to the FDA alerting the general public and publishing the brand names of the talcum powders, as it would cause the manufactures "economic hardship." Dr. Merritt also threatened to sue the FDA to prevent the disclosure of the brand names. As a result, the FDA, defendants and CTFA never revealed or publicized the brand names of the talcum powders that contained asbestos, much to the detriment of the plaintiff and the general public.

170. In 1973, CTFA created a talc subcommittee and the Scientific Advisory Committee to develop a testing methodology for detecting asbestos in talc. Initially, CTFA designated a group of its members to tests talc grades used in talcum powder utilizing the methodology proposed by the FDA in its notice of rulemaking. Six samples of talc used in commercially available talcum powders, plus one talc sample purposely spiked with tremolite and chrysotile, were circulated among the members, including representatives of defendants. Of the eight participating members, four found asbestos in every sample, three did not find asbestos in any sample (including the spiked sample), and one found asbestos only in the spiked sample. In conclusion, all members agreed that the best and most reliable method of detecting asbestos in talc is not optical microscopy, but rather TEM and electron diffraction. The same members, however, dispensed with this analytical method, claiming TEM and electron diffraction equipment was too expensive, despite defendants then owning or having unfettered access to same.

171. From there, the difference between what defendants and CTFA knew diverged from what they were representing to the FDA. Defendants, CTFA and others in the industry knew that there was no such thing as asbestos-free talc—only talc in which asbestos could not be detected using the prevailing, most economic analytical methodology, XRD, which at the time could not accurately identify chrysotile asbestos in talc, nor detect tremolite asbestos contamination levels below 2-5%.

172. Defendants and the CTFA also did not disclose to the FDA that the overwhelming majority of talcum powder manufacturers and sellers were not testing their products for asbestos, and even if they were testing, it was done so superficially: only four or so grams per 20 tons of pre-shipment and pre-processed talc, as an example. Defendants and CTFA also failed to inform the FDA that they were not testing off-the-shelf talc powder products, but rather old samples that were never from the end products themselves. They also failed to inform the FDA that they were limiting their testing of talc to only one type of asbestos fiber to the exclusion of all other fiber types that are commonly found in talc deposits. What is more, to the extent defendants found asbestos in their samples, these positive results were not reported to the FDA. Instead, on their behalf, CTFA sent letters to the FDA in March of 1976 fraudulently claiming that industry testing had shown all talcum powder products to be completely free of asbestos.

173. Beginning in 1975 and 1976, researchers at New York Air Resources Board, Mt. Sinai School of Medicine, and the FDA became increasingly concerned that CTFA, defendants and the cosmetic industries were slow to address the issue of asbestos in talc and talcum powders. Defendants had not issued any recalls, provided consumer warnings, informed the FDA of any effort to ensure that talcum powders on the market did not contain asbestos, or developed a reliable methodology or protocol for ensuring that talc and talcum powder did not contain asbestos.

174. Taking matters into their own hands, Mt. Sinai Hospital researchers published a follow-up article to Dr. Lewin's 1971 study that demonstrated that some of defendants' talcum powders contained over 20% asbestos. The researchers concluded that "[t]he presence in these products of asbestiform anthophyllite and tremolite, chrysotile, and quartz indicates the need for a regulatory standard for cosmetic talc...We also recommend that evaluation be made to determine the possible health hazards associated with the use of these products." The results of the Mount Sinai study were known to the defendants and published the same year by the New York Times and the Washington Post.

175. Defendants and CTFA responded to these developments by falsely claiming that the industry was doing "everything" it could to solve the problem; issuing press releases falsely claiming that chrysotile had never been found in talcum powders; and intentionally suppressing data that showed tremolite was commonly found in talc and talcum powder.

176. CTFA subsequently began in earnest to produce a voluntary protocol and methodology that would provide defendants cover from both lawsuits and regulation. Egregiously, as concerned media members, citizens and regulators began asking more questions about which other brands of talcum powder contained asbestos, defendants and CTFA falsely represented that talcum powders have never contained asbestos.

177. Defendants and third parties collectively met with and corresponded with CTFA, as well as collectively met with the FDA and other government agencies, to individually and collectively advocate for the use of "voluntary" XRD testing of miniscule portions of the tons of talc to be used in consumer products. Defendants' "voluntary" method—that was developed collectively by defendants and CTFA and advocated to the FDA in lieu of regulations requiring asbestos labeling or warnings on talcum powder products—was inadequate because levels of asbestos contamination in talc commonly fell below the detection limit of the testing methods.

Defendants and CTFA also knew that asbestos contamination was not uniformly distributed, such that the miniscule amounts tested would not reveal the true level of contamination in talc products, such as those to which Plaintiff Michael L. Perry was exposed.

178. In support of its voluntary XRD methodology, which was finally published in 1977, CTFA produced letters to the FDA written by its members, including defendants, identifying tests conducted showing talcum powder products did not contain asbestos. CTFA, defendants and other talc product producers, however, never informed the FDA of the hundreds of positive tests showing talc and talcum powders contained asbestos and other carcinogens.

179. CTFA “Method J4-1,” published on October 7, 1976, states that TEM-SAED “offers greater sensitivity, but is not presented since it is unsuitable for normal quality control applications.” The published method, rather, relies on XRD with “the level of detection of amphibole by this method [being] 0.5% and above.” CTFA met with and corresponded with defendants and third parties, to individually and collectively advocate to the FDA for the use of inadequate XRD testing on miniscule portions of the tons of talc obtained from the mining sources to be used in the consumer products, followed by fewer “periodic” tests by TEM. This voluntary method was developed by CTFA and defendants, and was advocated to the FDA by CTFA and defendants in lieu of regulations requiring labeling and warnings on talcum powder products, even though CTFA and defendants knew that the J4-1 method would not reveal the true level of asbestos in the talc that reached consumers. In fact, the first “round robin” tests, which analyzed a “CTFA Tremolite-Spiked Talc,” resulted in 6 of 7 participating laboratories failing to detect the tremolite. In other words, 84% of the industry’s laboratories failed to detect asbestos in a sample known to contain tremolite asbestos while using the CTFA’s own J4-1 method. There is no evidence that CTFA or defendants ever shared this remarkable failure with the FDA or the public.

180. Minutes of CTFA's Talc Subcommittee from February 24, 1975, stated "It was agreed, however, that chrysotile is never found in cosmetic talcs, based on numerous analyses by several investigators..." When referring to the challenge of chrysotile detection, an article entitled "Talc" in the January/March 1976 CTFA Cosmetic Journal, states that "The only known backup method for a positive identification in this event, is [TEM] with selected area diffraction." However, "despite many efforts, the committee had been unable to find a sample of cosmetic talc containing naturally occurring asbestos...it was asked, 'Why should we test for chrysotile if there isn't any?'" CTFA's Specification for Cosmetic Talc, revised on October 7, 1976, falsely represented that no fibrous asbestos was detected in cosmetic talc. Even after 1976, CTFA and defendants continued to obtain and/or receive results of testing performed internally and externally indicating the presence of asbestos and other carcinogens in the talc being used to manufacture cosmetic products. However, CFTA and defendants continued to represent that no asbestos was detected in cosmetic talc. These material representations adversely and directly impacted the FDA's attempt to adequately test consumer talc for asbestos and regulate cosmetics. The most sensitive method of identifying or detecting asbestos in cosmetic talc, TEM-SAED, was not used because CTFA represented that its "ultra-sensitivity could be a problem" and that it was too expensive to use. Instead, its J4-1 method relied on XRD alone for detection of asbestos at greater concentrations than 0.5%, a concentration that could allow more than a billion asbestos fibers per gram of talc to be passed off as "asbestos-free."

181. Defendants and CTFA made and published such representations, claiming that their testing method was adequate, that they were ensuring that talcum powder products were safe, and that the talc reaching consumers was "safe," despite having substantial knowledge and evidence to the contrary. Defendants intentionally and knowingly did so to avoid FDA regulations that may

have required them to place warnings regarding the asbestos content of their products, and thereby inform the public, including plaintiff, that talc-containing products contained asbestos.

182. CTFA then published an article in 1979 stating it conducted over three thousand tests of talcum powders and none of them found chrysotile. The article and report failed to disclose whether the talcum powders tested contained tremolite, anthophyllite or any other form of asbestos. This publication of half-truths was conveyed to the FDA and the public with the purpose of preventing regulations of cosmetic products. Thereafter CTFA's methodology became the standard by which nearly all talc was analyzed by the entire industry, including talc used in cosmetic and hygiene products today.

183. CTFA and defendants have represented to various news media outlets and the public at large that their products are "asbestos-free," when, in fact, their products did test positive for asbestos and those that did not were merely the result of inadequate and imprecise testing methods. "No asbestos detected" does not mean the product does not contain asbestos, but due to defendants' repeated conflation of the terms, the public has been led to erroneously believe talc products are safe. Furthermore, since defendants and CTFA did not have sufficient testing protocols in place to support the claims that talc products were safe or asbestos-free, such statements were recklessly made, as they had no reason to believe them.

184. Between 1970 and the 1990s, tests conducted by and on behalf of defendants and the talc industry continued to show that talc and talcum powder products contained asbestos. None of these positive tests have ever been produced or made known to any regulatory agency, and knowledge of their existence is only because of civil litigation.

185. Defendants and CTFA's failure to disclose these positive results and the inadequacies of their testing protocols continued through the 1980s, 1990s and 2000s, even when

various government agencies raised concerns about the safety of talc, including the issue of asbestos content.

186. To this day, many talc-containing products presently on the market contain asbestos. Instead of publicizing this fact, defendants and CTFA continue to deny all the above to protect their pecuniary interests, to the severe detriment of the public, including Plaintiff.

187. Since at least 1979, defendants have conducted a campaign to convince the public that their products are regulated by the FDA, that their tests are conducted pursuant to FDA regulations, and that talcum powder products are, therefore, safe. Nothing could be further from the truth: the FDA has never been assigned a budget by Congress to regulate cosmetics, including asbestos and other carcinogens in talcum powders. Defendants' concerns for the safety of their products have always been voluntary and under the auspices of CTFA, a private industry group, that in its 40 years has only banned the use of 11 ingredients in all cosmetics ever sold in the United States. Indeed, as of today, asbestos-containing talc in cosmetics has not been banned or otherwise regulated by CTFA or the FDA.

188. Defendants (and other entities in the talc industry and cosmetic industries, including the CTFA), individually and collectively, failed to report to the FDA tests performed both internally and by outside laboratories confirming the presence of asbestos in both their finished products as well as talc shipments from Talc Supplier Defendants and other sources that were used to produce finished products.

189. Defendants, and even the outside laboratories, including McCrone Associates, sent letters to CTFA, to be and which were forwarded to the FDA, stating that results of testing of talc used by them after 1972 had not revealed the presence of amphibole or chrysotile asbestos, when in fact all of these entities had received or performed tests indicating the contrary when such false representations were made.

190. After 1976, defendants and CTFA continued to obtain and/or receive results of testing performed internally and externally indicating the presence of asbestos in talc.

191. Defendants failed to place any warning on their talc and talcum powder products or ever disclose the fact that these products contained carcinogens, including asbestos, at any point, up to and including the present, despite the clear hazard and direct information that their products did and continue to contain such carcinogens.

192. Defendants and CTFA, collectively and through explicit agreement and consciously parallel behavior, controlled industry standards regarding the testing, manufacture, sale, distribution and use of talcum powder products, and controlled the level of knowledge and information available to the public, including Plaintiff, regarding the hazards of exposure to carcinogens, including asbestos, from talc and talc-containing products.

193. Defendants, through agreement and consciously parallel behavior, intentionally failed to warn potential users, including Plaintiff, of the serious bodily harm and/or death which may result from the inhalation and/or ingestion of asbestos in their talc and talc-containing products.

194. Defendants and CTFA, through agreement and consciously parallel behavior, knowingly and intentionally released, published and disseminated invalid, inaccurate, outdated and misleading scientific data, literature and test reports containing misinformation and false statements regarding the health risks associated with the use of talc and talcum powder products, including those to which Plaintiff Michael L. Perry was exposed.

195. Defendants and CTFA, while cognizant of the aforementioned data, deliberately chose to ignore the health and safety issues raised in said data and embarked upon a plan of deception intended to deprive the public at large, including plaintiff, of alarming medical and

scientific findings, many of which remained in their exclusive possession and under their exclusive control.

196. Defendants and CTFA conspired and/or acted in concert with each other and/or with other entities through agreement and consciously parallel behavior:

- (a) to withhold from users of their products—and from persons who they knew and should have known would be exposed thereto—information regarding the health risks of inhaling and/or ingesting asbestos and other carcinogens contained in talc and talcum powder products;
- (b) to eliminate, suppress or prevent investigation into the health hazards of exposure to asbestos and other carcinogens in talc and talcum powder products;
- (c) to ensure that asbestos-containing talc and talcum powder products became widely used in commerce, irrespective of the potential and actual risk of harm to the users and consumers from the asbestos and other carcinogens therein; and
- (d) to falsely represent that talc and talcum powder products, including those of defendants, were safe and healthful for use by consumers.

197. Plaintiff reasonably and in good faith relied upon the false and fraudulent representations made by defendants and CTFA regarding the hazards of talc and talcum powder products that contained asbestos and other carcinogens, and he was, therefore, deprived of an opportunity to make informed decisions concerning use of, exposure to and contact with said products.

198. CTFA, as well as defendants and other entities in the talc industry and cosmetic industries, individually and collectively, failed to report to the FDA tests performed both internally and by outside laboratories confirming the presence of asbestos in defendants' and other CTFA members' finished products as well as talc shipments from talc suppliers and other sources that were used to produce finished products. Instead, CTFA sent letters to the FDA stating that results of testing of talc used by the industry after 1972 had not revealed the presence of amphiboles or

chrysotile, when in fact all of these entities had received or performed tests indicating the contrary by 1976, when such intentionally false misrepresentations were made. CTFA and defendants made and published such representations claiming that their collective testing method was adequate, they were ensuring that talcum powder products were safe, and that their testing of talc reaching consumers was “safe,” despite knowing the contrary.

199. The FDA, and ultimately Plaintiff, directly and/or indirectly relied upon CTFA’s and defendants’ false representations regarding the safety of cosmetic talc. In fact, an FDA letter dated January 11, 1979, states: “In cooperation with scientists from industry, our scientists have been making progress in the development of such regulatory methods.” The continuing lack of FDA awareness regarding CTFA’s and defendants’ misrepresentations was obvious seven years later. In a response to a citizen petition to require an asbestos warning label on cosmetic talc, on July 11, 1986, the FDA states that an “analytical methodology was sufficiently developed” to ensure that “such talc [is] free of fibrous amphibole...” CTFA’s J4-1 method has continued for the past four decades to be the cosmetic talc industry’s method for “ensuring” “asbestos-free” talc. The use of TEM, recognized by the CTFA as offering “greater sensitivity” for asbestos, continued to increase over the following decades as its advantages were applied to more matrices. In 1990, Kremer and Millette published a TEM method for analysis of asbestos in talc with a theoretical detection limit of about 0.00005%. Despite such improvements in analytical techniques, the cosmetic talc industry, including defendants, continues, four decades later, to use and promote its antiquated and wholly inadequate J4-1 method.

200. CTFA and defendants, collectively and through explicit agreement and consciously parallel behavior, controlled industry standards regarding the testing, manufacture, sale, marketing, distribution and use of asbestos-containing talcum powder products, and controlled the

level of knowledge and information available to the public regarding the hazards of exposure to asbestos and other carcinogens from talc and talc-containing products.

201. CTFA and defendants, through agreement and consciously parallel behavior, intentionally failed to warn potential users, including plaintiff and their family members, of the serious bodily harm and/or death which may result from the inhalation and/or ingestion of asbestos from their talc and talc-containing products.

202. CTFA and defendants, through agreement and consciously parallel behavior, knowingly and intentionally released, published and disseminated invalid, inaccurate, outdated and misleading scientific data, literature and test reports containing misinformation and false statements regarding the health risks associated with the use of talc and talcum powder, and specifically talc and talcum powder used in the production of products to which Plaintiff Michael L. Perry was exposed.

203. CTFA and defendants, through agreement and consciously parallel behavior, suppressed, altered, changed, destroyed and/or revised reports, data, tests, studies and other documents regarding the potential presence of asbestos and other carcinogens in talc and talc-containing products, including defendants' products to which Plaintiff Michael L. Perry was exposed.

204. As recently as 2016, Defendants made material misrepresentations to the FDA regarding asbestos in its talcum powder products.

205. For additional details regarding and supporting plaintiff's claim, see Bird T., et al., "A Review of the Talc Industry's Influence on Federal Regulation and Scientific Standards for Asbestos In Talc," New Solut., 2021 Aug; 31(2): 152-169.

206. Defendants, both acting individually and in concert with others, including the CTFA, violated the common law duty of care owed to plaintiff or otherwise engaged in intentionally culpable activity that caused Plaintiff to suffer severe injuries and damages.

207. As a direct and proximate consequence of the foregoing acts and omissions, Plaintiff Michael L. Perry (i) relied on defendants' false assurances that their talc-containing products were free from asbestos and safe, (ii) used or was otherwise exposed to defendants' talc-containing products; (iii) and inhaled and/or ingested asbestos resulting from the ordinary and foreseeable use thereof.

208. The actions and omissions of defendants, independently and collectively, constitute a pattern or practice of intentionally wrongful conduct and/or malice resulting in injuries to Plaintiff as described in this complaint.

209. As a direct and proximate consequence of the foregoing acts and omissions by the defendants, Plaintiff Michael L. Perry used or was otherwise exposed to defendants' products and inhaled and/or ingested asbestos resulting from the ordinary and foreseeable use thereof.

FOR A SEVENTH CAUSE OF ACTION

**(Fraud as to Defendants Johnson & Johnson,
Johnson & Johnson Holdco (NA) Inc., Janssen Pharmaceuticals Inc., Kenvue Inc., and
LTL Management LLC)**

For a Seventh Distinct Cause of Action for Fraud, Plaintiffs Complain of Defendants, and Allege as Follows:

210. Defendants JOHNSON & JOHNSON, JOHNSON & JOHNSON HOLDCO (NA) INC., f/k/a Johnson & Johnson Consumer Inc., individually and successor-in-interest to Johnson & Johnson subsidiary "Old JJCI", JANSSEN PHARMACEUTICALS INC., individually and as successor-in-interest to Johnson & Johnson subsidiaries named Johnson & Johnson Consumer Inc., both prior to and after its 2021 restructurings and colloquially known as "Old JJCI" and "New JJCI", KENVUE INC., individually and as successor-in-interest to Johnson & Johnson Consumer

Inc., and LTL MANAGEMENT LLC (collectively “J&J”) made false representations regarding the asbestos content of their talc products, including Johnson’s Baby Powder and Shower to Shower used by Plaintiff Michael L. Perry, misrepresentations that Plaintiff relied on to his detriment and which caused the development of his mesothelioma. J&J’s misrepresentations were deliberate and were effectuated through a campaign to hide and destroy laboratory testing detecting asbestos in Johnson’s Baby Powder and Shower to Shower, to manipulate the protocols for such testing to falsely suggest no asbestos was found in Johnson’s Baby Powder and Shower to Shower, and to repeatedly assert to the public and federal regulatory agencies that Johnson’s Baby Powder and Shower to Shower were safe.

211. Johnson’s Baby Powder was a critical cornerstone product for J&J, referenced as the company’s “golden egg” and “sacred cow.” See Exhibit 1 (04/28/1997 The Johnson & Johnson Advantage: Emotional Trust); see also Exhibit 2 (08/18/1997 Mother-Baby Strategic Mission); see also Exhibit 3 (08/20/1997 Johnson & Johnson "Golden Egg" Advertising Strategy); see also Exhibit 4 (excerpt of 08/04/1999 Johnson & Johnson Baby Camp PowerPoint); see also Exhibit 5 (excerpt of 08/10/1999 Johnson & Johnson Baby Camp PowerPoint with Koffman (Golden Egg presentation)).

212. J&J knew that its cosmetic talc products, including Johnson’s Baby Powder and Shower to Shower, contained asbestos fibers, knew those asbestos fibers could cause cancer, and knew that it was not safe to be selling such products to the public for use on babies, children, and adults. In a memorandum dated April 9, 1969, J&J internally expressed concern that the presence of tremolite asbestos in its talc products would cause pulmonary diseases and cancer and increased the risk that the company would be drawn into litigation. J&J acknowledged that trace amounts of tremolite were unavoidable, and that efforts should be made to keep the amount of tremolite to a minimum.

213. In a memorandum dated July 30, 1971, J&J was informed that there is no place for asbestos in talc, trace amounts were not acceptable, and any talc with asbestos should be removed from the market. J&J was informed that no level of asbestos in talc is acceptable for cosmetic use.

214. In a memorandum dated October 16, 1997, J&J acknowledged that there is no doubt that “mesothelioma can be caused by non-occupational exposure to mineral fibers” and that “mesothelioma may occur after brief or indirect exposure to asbestos.” This memorandum further stated that tremolite is considered one of “the most potent mesothelioma producers” and that scientists contend that trace amounts of tremolite in other minerals is responsible for mesotheliomas.

215. In its memorandum of October 16, 1997, J&J acknowledged that “in several mesothelioma patients studied, both talc fibers and tremolite were detected. In fact, the majority of asbestos bodies isolated from the lungs of women in the general population have tremolite or anthophyllite and because tremolite and anthophyllite are known contaminants of talc, this data suggests that rare cases of mesothelioma among women with no other identifiable exposure might be related to exposure to cosmetic talc.” Further, an environmental factor that must be given “major consideration in the incidence of Mesothelioma” includes “tremolite asbestos” which “is a known contaminant [of] some deposits of talc.”

216. J&J’s corporate representative has acknowledged in litigation that it has known for years that the talc used in Johnson’s Baby Powder could be inhaled and reach deep into the lung. For decades, J&J has known about the dangers of talc powder inhalation during the normal use of its talc-based cosmetic products, especially to babies.

217. The relationship between asbestos exposure and mesothelioma has been well understood since the 1960s and numerous studies confirm that causal relationship. J&J was aware of this causal relationship through its knowledge of the scientific literature and its membership in trade organizations through which such knowledge was distributed.

218. Beginning at least in the 1950s, J&J tested its talc for impurities or comineral, including “asbestos” and “tremolite,” because the company knew they are deleterious minerals that could be harmful to a person’s health and thus should not be found in talc-based cosmetic products. At all relevant times, J&J understood the dangers posed by asbestos exposure and that asbestos was a known impurity of talc.

219. J&J, internally and through hired testing laboratories such as the Battelle Memorial Institute, McCrone Associates, and the Colorado School of Mines Research Institute, tested for asbestos impurities in the source talc ore, processed ore, and finished products used to manufacture J&J cosmetic talc products. All of these testing laboratories found asbestos minerals in J&J source talc ore or cosmetic talc products. Independent labs have also found asbestos in the talc used in J&J cosmetic talc products.

220. The existence of laboratory tests finding asbestos in J&J cosmetic talc products and source talc used in those products has been verified by J&J under cross examination in recent litigation. J&J knew about these positive test results all along. In 1972, J&J executives acknowledged internally that the results of testing demonstrating the presence of asbestos in J&J’s cosmetic talc products and the source ore used to make these products. At that time, J&J confirmed that McCrone found trace tremolite and that these findings are “not new.”

221. In May 1973, Roger Miller, the President of J&J’s mining company, Windsor Minerals, informed J&J that “the ore body contains actinolite.” This talc ore body was actively used to produce J&J’s cosmetic talc products. One week later, J&J’s records note that “[t]he first showing of actinolite we know about is October 1972.”

222. J&J consistently lied about these positive test results for decades. In response to consumer inquiries, J&J has assured consumers that “asbestos has never been found in Johnson’s Baby Powder and it never will.” In print advertisements as late as December 19, 2018, J&J told the public

that “Baby Powder does not contain asbestos and never will. We test every single lot to ensure it.” The Johnson’s Baby Powder product label says it was the “Purest Protection” and it was advertised as “the best you can buy” and “the purest.”

223. J&J has acknowledged that the intent of these representations to consumers has always been to “to reassure them they could feel safe and comfortable using Johnson’s Baby Powder because it does not contain asbestos” and to convey that in using Johnson’s Baby Powder, there was “zero chance” of exposing their families to asbestos. The statements that Johnson’s Baby Powder and Shower to Shower does not contain asbestos, that there was “zero chance” consumers were exposing their families to asbestos were false when they were made, and J&J knew they were false when they made those statements. As a direct result of J&J’s false representations that Johnson’s Baby Powder and Shower to Shower never contained asbestos, millions of people, including babies, were unwittingly and needlessly exposed to asbestos.

224. J&J has never placed warnings on its talc-based powder products about the potential hazards presented by the product being aerosolized in normal application. J&J never placed warnings on its powder products about the risk of asbestos exposure or cancer.

225. Instead, J&J represented to the public that Johnson’s Baby Powder was safe. J&J withheld from their spokespeople whose job it was to communicate the “no evidence of asbestos” message any reports indicating there was in fact evidence of asbestos in Johnson’s Baby Powder. J&J’s misrepresentations and omissions regarding the safety of Johnson’s Baby Powder and Shower to Shower has resulted in consumer use of this and other cosmetic talc products in a potentially lethal way without any knowledge of the danger.

226. Since the early 1970s the FDA has repeatedly asked J&J whether there was any evidence of any amount of asbestos in any J&J cosmetic talc product. J&J’s answer to the FDA’s inquiries was always the same: there is no evidence of any amount of asbestos in any J&J cosmetic

talc product. Over the course of more than four decades, J&J represented to the FDA over and over again that there is not a single instance or report of asbestos – including chrysotile asbestos – in its products.

227. In a letter dated September 21, 1971, J&J represented to the FDA that its data “conclusively proves that Johnson’s Baby Powder is free of asbestos.” J&J has represented to the FDA that “no amphibole materials have been detected” in the company’s talc-based products. Documentation of a meeting between J&J and the FDA in 1972 shows that, when pressed, J&J went so far as to represent to the FDA that “there wasn’t a shred of evidence to support the idea that either our Johnson’s Baby Powder or Shower to Shower contained any chrysotile asbestos.”

228. Although aware of repeated McCrone reports over the course of years to the contrary, J&J falsely represented to the FDA that its consultant McCrone never found asbestos in the talc ore that was used to make Johnson’s Baby Powder and Shower to Shower. In 1976, J&J rejected the FDA’s request to provide the results of its respective periodic monitoring for asbestos.

229. J&J also submitted false and misleading statements through its trade association, the Cosmetic, Toiletry & Fragrance Association (“CTFA”) (n/k/a Personal Care Products Council) (“PCPC”). The CTFA made false statements to Plaintiff, the general public, news media, and government agencies, including, but not limited to the FDA, the National Institute of Occupational Health and Safety (“OSHA”), the National Institute for Occupational Safety and Health (“NIOSH”), the Mine Health and Safety Administration (“MHSA”), and the National Toxicology Program (“NTP”), which, in turn, proximately caused Plaintiff’s harm through intentional efforts to deceive the general public and regulatory authorities as to the safety of and presence of carcinogens in Johnson’s Baby Powder and Shower to Shower.

230. J&J used the CTFA to communicate false information about the purity of its talc and lack of asbestos content, as evidenced by a letter dated March 15, 1976. This false information was

then transmitted by the CTFA to the FDA to “give assurance as to the freedom from contamination by asbestos form materials of cosmetic talc products.” This was done after J&J was aware of over 50 reports about asbestos minerals and fibers in the talc it used for cosmetic talc products. Two weeks after relaying this false information, J&J met privately in Hillside, New Jersey and congratulated themselves on the “success” of the “presentations” to the FDA and agreed that they should not bind themselves to having to further update the FDA.

231. J&J and other industry members agreed to do testing on their respective cosmetic talc products in a “round robin” format. The testing was done using a table that identified the manufacturer of the samples that were tested. Multiple samples contained asbestos. In a letter dated March 1, 1978, the Chairman of the CTFA Task Force on Round Robin Testing and then current employee of J&J instructed the CTFA to “destroy your copy of the table” containing the results finding asbestos in cosmetic talcs.

232. Although possessing test results indicating that the talc used in its talc-based products contained tremolite and chrysotile asbestos — reportable as asbestos under federal regulations — J&J represented to the NTP that there was never any evidence of asbestos in the talc used in Johnson’s Baby Powder and Shower to Shower. And decades after asbestos was first reported, J&J continued to represent to the FDA that it had confirmed “the absence of asbestiform minerals” in its finished talc-based products. It did so in the CTFA’s Comments in Response to a Citizens Petition dated June 27, 1995.

233. As recently as 2016, in a document dated March 17, 2016, J&J represented to the FDA that no asbestos structures have ever been found in its talc-based products in any testing anywhere in the world. This statement made to the FDA was false.

234. In an advertisement to the public dated December 19, 2018, J&J falsely claimed that it has cooperated fully and openly with the FDA and other regulators. In fact, J&J did not provide

the FDA with positive asbestos tests from its hired consultants, including McCrone, and the Colorado School of Mines. J&J did not tell the FDA that it possessed test results finding asbestos in the mine ore and the finished talc product nor did it give those results to the FDA.

235. J&J also used its consultants as vehicles to intentionally mislead the FDA. A letter dated October 12, 1971, evidences that J&J knew that its standby consultant McCrone purposely omitted findings of asbestos in its talc-based products because it “would only tend to confuse the issue perhaps with the FDA” and that McCrone offered that if J&J “decide[d] to use these reports with the FDA” to “please call us.”

236. As a part of its testing protocol for J&J’s talc products, McCrone would segregate any test results that were positive for the presence of asbestos in talc ore or cosmetic talc products from those that allegedly found “no quantifiable” asbestos. For instance, on April 29, 1986, under McCrone Project No. ME-2275 and Purchase Order WS-0503, McCrone authored two separate reports of test results for Windsor Minerals. The first was for 11 talc samples in which “no quantifiable” amounts of asbestiform were found. The second was for the three talc samples (noticeably extracted from the numbering sequence) in which traces of chrysotile were found.

237. McCrone and J&J worked together to manipulate the asbestos testing results of J&J products done by outside laboratories and reported those manipulated findings to the FDA as negative results. For example, in a report dated October 27, 1972, McCrone found tremolite asbestos in J&J talc products but a handwritten note was written in large print on the front of the report stating: “DO NOT USE THIS REPORT.” The report was revised to remove the quantification of asbestos found.

238. Similar asbestos findings by other J&J consultants were also hidden from the FDA. J&J submitted to the FDA testing performed by Professor Hutchinson from the Minnesota Space Center only in excerpts that removed all references to his “incontrovertible” findings of chrysotile asbestos. J&J did not submit a March 1974 test results from Professor Reynolds at Dartmouth College

that “Actinolite is the dominant fiberform amphibole in the ore and talc product provided by Windsor Minerals.” Instead, J&J submitted test results to the FDA from Dartmouth claiming that no amphiboles were found in the company’s talc products.

239. J&J had its consultants use purposefully misleading laboratory tests to support its false claims that its talc ore and talc products were free of any asbestos. Since at least 1971, J&J has known that transmission electron microscopy (“TEM” or electron microscopy) is the superior microscope to detect asbestos in talc and was its consultants’ recommended testing method. In fact, the positive asbestos results obtained by Professor Hutchinson utilized the TEM method. But J&J convinced the FDA that lesser test methods were effective, knowing that those lesser methods had failed to detect asbestos that was verified to be present in J&J’s cosmetic talc products. J&J routinely submitted test reports to the FDA as proof that its talc was asbestos free knowing that the methods used would not detect asbestos at low levels and thus were not reliable to rule out the presence of asbestos. For example, a McCrone report dated April 24, 1974, noted that lesser methods failed to find asbestos in over a dozen samples where the asbestos was confirmed when using the correct tool – TEM.

240. Despite J&J’s knowledge that other testing methods missed verified asbestos in its talc, J&J advocated an industry standard using one of the weaker/lesser methods and claimed it would ensure the talc was asbestos free. This method is known as J4-1. The J4-1 testing method utilized x-ray diffraction (“XRD”) as the initial screen to determine if any further testing was necessary. The limit of detection was between .5% and 5% and ensured that millions to trillions of asbestos fibers in a gram of talc could escape detection. Using the J4-1 method, if the XRD test result was negative, no more testing would occur, and the sample would be reported as “none detected.” This process virtually guaranteed that low levels of asbestos would never be found. J&J also knew that XRD could not detect chrysotile at levels below two percent of the talc product and was also incapable of detecting low levels of tremolite. In the unlikely event an XRD test result was positive, J&J’s second step

utilized polarized light microscopy (“PLM”), also a lesser testing method, and J&J instructed the PLM analyst not to count all of the fibers he or she would actually see under the microscope. Short fibers, below a defined size, recognized as carcinogenic, were excluded from any reporting.

241. The CTFA’s December 10, 1973 report confirmed that multiple talc sources, including Italian and Vermont talc, failed the proposed FDA’s method because of elevated chrysotile concentrations. Thereafter, the CTFA proposed J4-1 knowing it was a “unreliable” testing method for asbestos in talc. The first “round robin” tests, which analyzed a “CTFA Tremolite-Spiked Talc,” resulted in six of seven participating laboratories failing to detect the tremolite. In other words, 84% of the industry’s laboratories failed to detect asbestos in a sample known to contain tremolite asbestos while using the CTFA’s J4-1 method. There is no evidence that CTFA or J&J ever shared this remarkable failure with the FDA or the public.

242. J&J also knew that the “concentration method” of sample preparation was most able to detect the presence of asbestos in its talc and thus provide more accurate results. Internal memorandums from 1973 show that J&J understood that the concentration method was “much more sensitive than our proposed specifications” and when used found traces of tremolite which the J&J testing methods would fail to expose. J&J’s stated concern with using a concentration method, set forth in a memorandum dated May 16, 1973, was that it was too good at detecting asbestos – it was too sensitive. Correspondence dated February 18, 1975 indicates that J&J rejected the concentration method because the effective and sensitive testing was not “in the worldwide company interest.” Indeed, many of J&J’s consultants — including the Colorado School of Mines, Professor Pooley of Cardiff University, Professor Reynolds of Dartmouth College, and Professor Alice Blount of Rutgers University — found asbestos in J&J’s talc-based cosmetic products using the concentration method. J&J did not provide any of those test results to the FDA, however.

243. When J&J finally decided to use TEM on a limited basis in 1995, it implemented a TEM reporting methodology designed to yield negative, rather than accurate results. J&J called its method TM7024. According to this method, a lab would report the test results as negative and “not quantifiable” unless the scientist counted 5 or more asbestos fibers of the same variety in an incredibly small sample (it varied but was well under 50 milligrams). Thus, even if the examiner identified, counted and quantified as many as 16 asbestos fibers (four fibers of tremolite, four fibers of actinolite, four fibers of anthophyllite, and four fibers of chrysotile) the finding of asbestos was not to be reported. This method instructed labs who confirm the presence of asbestos in incredibly small samples to “couch” the results in specific and deceptive language that the lab “did not find any quantifiable amount of asbestosforms minerals.” J&J’s position about the scientific propriety of its TM7024 testing protocol was and remains inconsistent with EPA protocols for counting asbestos fibers.

244. Even though J&J tested miniscule amounts of product, and utilized methods specifically designed to yield negative results, asbestos was still found in J&J’s cosmetic talc. J&J never produced these test results to the public until 2017. In editing information for its website in about 2016, J&J acknowledged internally that it “cannot say our talc-based consumer products have always been asbestos free.”

245. J&J represented to the FDA that the most sensitive testing was not needed because “substantial asbestos can be allowed safely in baby powder.” J&J also claimed that “extensive” animal studies of its Vermont and Italian talc revealed no cancer risk from their talc. J&J now admits that only one study was done of its Vermont talc and only one study of its Italian talc as it relates to the risk of cancer from talc. The FDA was not told tests were conducted on a special lot of “extremely clean” talc. This information was first disclosed in litigation from J&J internal records, first produced no earlier than 2017.

246. J&J knew that it had liability to persons who developed asbestos-related diseases as a result of exposure to its cosmetic talc products. In an internal communication dated April 15, 1969, the Medical Director for J&J wrote to advise the company of danger relative to “inhalation” of the “needle-like” crystals of tremolite asbestos in J&J’s talc. J&J was cautioned that “since the usage of these products is so widespread, and the existence of pulmonary disease is increasing, it is not inconceivable that [J&J] could become involved in litigation in which pulmonary fibrosis or other changes might be rightfully or wrongfully attributed to inhalation of our powder formulations.” To that end, Dr. Thompson recommended that “someone in the Law Department should be consulted with regard to the defensibility of our position in the event that such a situation could ever arise.” The medical director further forewarned J&J that the company could confront a situation where the company would be more or less compelled to remove its talc products “if it became known that our talc formulations contained any significant amount of Tremolite.” This prediction of litigation came to fruition shortly thereafter. J&J has reported that during the 1970s alone, the company was sued in talc-based cases in 1971, 1972, 1973 1974, 1976, 1977, 1978, and 1979.

247. Due to the litigation process, J&J has been forced to identify documents from as early as 1971 (and every year thereafter) relating to “ongoing,” “pending,” and “anticipated” litigation regarding Johnson’s Baby Powder. Since at least 1971, J&J has known that information in the company’s possession relevant to or produced in any particular talc-based lawsuit would be relevant to discovery in future talc-based cases. Although J&J was legally obligated to retain the evidence, it does not know where the documents and evidence related to these cases are located or whether they even exist. Entries on J&J’s privilege log indicate that samples of talcum powder used in litigation existed at the time the litigation in the 1970s was pending but are no longer available.

248. Despite being involved in litigation for decades, J&J never produced a single asbestos test in any case prior to 2017, even when specifically requested. J&J was repeatedly asked in litigation

whether the talc used in any of its talc-based cosmetic products contained any amount of asbestos. J&J represented to plaintiffs' counsel that "there was no evidence" of asbestos in its cosmetic talc. These representations exemplified J&J's pattern and practice in defending talc-injury litigation, which was to conceal evidence of asbestos in its cosmetic talc products and represent that no such evidence ever existed. Many of the same J&J executives who were involved in discussions with the FDA about the company's talc-based cosmetic products were involved in defending J&J in litigation alleging asbestos-related injuries from talc-based cosmetic products.

249. J&J routinely provided sworn affidavits from company executives falsely asserting that there was no evidence of asbestos in the talc used for J&J cosmetic products. In addition to submitting false affidavits, J&J repeatedly certified answers to interrogatories stating that there was never any evidence of asbestos in any J&J cosmetic talc product when it knew the truth to be otherwise. J&J knew there was tremolite in Johnson's Baby Powder when responding to discovery requests in the Krushinski case. J&J has been forced to admit that these interrogatories, which were answered in conjunction with the company's lawyers, were false.

250. J&J concealed and refused to produce in response to plaintiffs' discovery requests any documents evidencing or relating to tests, studies, investigations, and analyses of Johnson's Baby Powder and Shower to Shower for the presence of asbestos, despite its knowledge that relevant and material documents existed and were in its possession and that it had the duty to disclose them.

251. Although J&J by its own admission had an obligation to preserve evidence once litigation concerning the health effects of its talc products was foreseeable, it failed to do so. J&J knew that evidence adduced in litigation concerning the health effects of its talc products would be material and relevant to other anticipated cases. Yet J&J failed to preserve records from any of the lawsuits that alleged injuries as a result of Johnson's Baby Powder, Shower to Shower, talc, or asbestos, even though J&J knew that relevant and material documents existed and were in its possession.

252. J&J did not retain any samples of its talc ore and milled talc used in its talc-based cosmetic products, which it tested regularly for the presence of asbestos and asbestiform minerals at any time until 2017. Although litigation was pending and anticipated, the samples chosen by J&J specifically to create test results were not retained under the company's evidence retention schedules and were not subject to any litigation-hold. J&J also failed to retain all test results for the presence of asbestos and asbestiform minerals of the talc ore and milled talc used in its talc-based cosmetic products. The failure to institute a litigation hold made certain that the testing results were destroyed in accordance with its document retention policy. In 2008, nearly ten years after the first litigation hold, when asked about retention time for "information related to the CTFA ingredient surveys" J&J directed its employees to "PITCH them." Any test results that J&J has not yet produced are presumed to be destroyed, as the disposal of these results were mandated by the company's evidence retention scheduled absent a litigation hold, which J&J never issued.

253. The limited underlying scientific data that still exists of J&J's consultants confirms that the reports of "no detectable" asbestos are belied by the underlying scientific data, which shows evidence of asbestos. There are countless similar non-detect letters with no underlying data.

254. In 1989, after facing litigation related to its talc-based products for nearly two decades and anticipating further litigation, J&J destroyed records relating to its Hammondsville, Vermont mining operations.

255. J&J historically preserved no records from the majority of cases in which it has been sued for causing talc related injuries. For those cases where there is at least some documentation, J&J either lost or destroyed most of the material evidence related to historical litigation alleging asbestos-related disease from its talc products. Despite being involved in many cases dating back to 1971, J&J could only locate two sets of discovery responses for its corporate representative to review.

256. J&J once maintained a paper file documenting all of its telephone conversations with the FDA related to its talc-based cosmetic products dating to the early 1970s. The “FDA Call File” no longer exists.

**J&J is Fully Responsible for Conduct
Fraudulent Misrepresentation**

257. J&J intentionally and fraudulently continued to misrepresent to the public that Johnson’s Baby Powder and Shower to Shower were safe, concealing the dangers of asbestos exposure and evidence of asbestos in J&J’s talc product. J&J’s misrepresentations and omissions regarding the safety of Johnson’s Baby Powder and Shower to Shower have resulted in consumer use of cosmetic talc products in a potentially lethal way without any knowledge of the danger, thus denying Plaintiff the knowledge with which to avoid further exposure. Specifically, J&J’s intentional and fraudulent conduct included the following acts and omissions:

- (a) J&J made a material representation;
- (b) The representation was false;
- (c) J&J knew it was false when made or made it recklessly without knowing it was true as a material positive assertion;
- (d) J&J made the misrepresentation intending that Plaintiff act on the representation;
- (e) Plaintiff acted in reliance on it; and
- (f) Plaintiff, as a result, suffered damage.

**J&J is Fully Responsible for Conduct
Silent Fraud (a/k/a Fraudulent Concealment)**

258. J&J intentionally and fraudulently concealed the dangers of asbestos exposure and continued to represent to the public that Johnson’s Baby Powder and Shower to Shower were safe, concealing the evidence of asbestos in J&J’s talc product. J&J’s concealment and omissions regarding the safety of Johnson’s Baby Powder and Shower to Shower have resulted in consumer use of cosmetic talc products in a potentially lethal way without any knowledge of the danger, thus denying

Plaintiff the knowledge with which to avoid further exposure. Specifically, J&J's intentional and fraudulent conduct included the following acts and omissions:

- (a) J&J suppressed a material fact;
- (b) J&J had a duty to disclose the fact; and
- (c) J&J concealed the fact with the intent to defraud.

259. Plaintiff Michael L. Perry trusted Johnson's Baby Powder and Shower to Shower. He used it on himself, believing it to be safe. Plaintiff trusted that the talc products used on himself were safe and did not have any carcinogens. He relied on J&J to provide any safety information to him and his family and to make sure any life-threatening hazards were communicated to her. Had the Plaintiff known the true facts, he would never have purchased or used the products.

260. Plaintiff Michael L. Perry developed malignant mesothelioma, a fatal cancer, as a direct and proximate cause of the misrepresentations made by J&J regarding the safety of Johnson's Baby Powder and Shower to Shower and its concealment of evidence that its cosmetic talc products utilized talc that contained asbestos fibers that could cause cancer.

WHEREFORE, Plaintiffs demand judgment against defendants Johnson & Johnson, Johnson & Johnson Holdco (NA) Inc., Janssen Pharmaceuticals Inc., and Kenvue Inc. for a reasonable amount plus statutory interest and costs, and for such other relief as shall be deemed appropriate.

FOR AN EIGHTH CAUSE OF ACTION
(Loss of Consortium)

For an Eighth Distinct Cause of Action for Loss of Consortium, Plaintiff Lonnie L. Long Complains of Defendants, and Alleges as Follows:

261. Plaintiff incorporates by reference, the preceding paragraphs, where relevant.

262. Plaintiffs Michael L. Perry and Lonnie L. Long were married on June 20, 2009 and at all times relevant to their action were legally married.

263. Prior to his injuries as alleged, Plaintiff Michael L. Perry was able and did perform his spousal duties. As a proximate result thereof, subsequent to the injuries, Plaintiff Michael L. Perry has been unable to perform his spousal duties and the work and service usually performed in the care, maintenance and management of the family home. As a proximate result thereof, Plaintiff Lonnie L. Long was deprived of the consortium of his spouse, including the performance of duties, all to Plaintiffs' damages, in an amount presently unknown to Plaintiffs but which will be proven at time of trial.

264. As a direct and proximate result of the acts of Defendants and/or their "alternate entities" and the severe injuries caused to Plaintiff Michael L. Perry as set forth herein, Plaintiff's spouse and co- Lonnie L. Long suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, society, comfort, companionship, love and affection of his spouse, and has suffered severe mental and emotional distress and general nervousness. Plaintiffs pray judgment against Defendants, their "alternate entities" and each of them, as hereinafter set forth.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or their "alternate entities" in an amount to be proved at trial, as follows:

1. For Plaintiffs' actual damages according to proof, including pain and suffering, mental distress, as well as medical, surgical and hospital bills;
2. For loss of income or earnings according to proof;
3. For loss of care, comfort and society;
4. For punitive damages according to proof;
5. For Plaintiffs' cost of suit herein;
6. For damages for breach of implied warranty according to proof;

7. For damages for fraudulent misrepresentation according to proof; and
8. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,

/s/ Theile B. McVey

Theile B. McVey (SC Bar No. 16682)

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ATTORNEYS FOR PLAINTIFFS

August 3, 2023
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
MICHAEL L. PERRY and	)	C/A NO. 2023-CP-40-04072
LONNIE L. LONG,	)	
	)	<i>In Re:</i>
Plaintiffs,	)	Asbestos Personal Injury Litigation
	)	Coordinated Docket
v.	)	
	)	
AMERICAN INTERNATIONAL	)	
INDUSTRIES, et al.	)	
	)	
Defendants.	)	



PERSONALLY, appeared before me, Theile B. McVey, who being duly sworn, deposes and says:

1. I am an attorney of record for the Plaintiffs in the above captioned action.
2. On August 7, 2023, service was obtained on Atlas Turner Inc. through its receiver Peter Protopapas via electronic mail with the Plaintiffs' Original Summons and Complaint. See **Exhibit A**, Return of Service. See also, **Exhibit B**, Plaintiffs' Summons and Original Complaint. The Receiver for Atlas Turner Inc. accepted service for Defendant on August 22, 2023. See **Exhibit C**. Acceptance of Service.
3. Defendant's Answer to Plaintiffs' Original Complaint was due on September 7, 2023. No Answer has been filed by Atlas Turner Inc. The Defendant is now in default.
4. At no time during the pendency of this action was Defendant a minor, incompetent person, or engaged in the military service of the United States of America as is contemplated under what is commonly known and designated as the Soldiers and Sailors Relief Act or 1940, and any amendments thereto.

[SIGNATURE ON FOLLOWING PAGE]

Sworn to before me this

3rd day of Oct, 2023

Elizabeth C. Mentore
Notary Public for the State of South Carolina

My Commission expires: 02/24/2030

Theile B. McVey

Counsel for Plaintiffs

Tuesday, October 3, 2023 at 20:26:03 Central Daylight Time

Subject: #2023CP4004072; Perry vs. American Int'l Industries, et al. - Service on Receivership Defendant
Date: Monday, August 7, 2023 at 5:00:02 PM Central Daylight Time
From: Lisa Dittemore
To: Peter Protopapas, Lindsay Valek, Danny Nieto
CC: Trey Branham
Attachments: Perry - Motion to Expedite (wExh A) - FILED 08.07.23.pdf, Perry - Filed S&C (w5 Exhs & Path Rpt) - FILED 08.04.23.pdf, image001.jpg

Good afternoon Mr. Protopapas:

Attached please find the filed Summons, Complaint and Motion to Expedite for service of process in the above referenced case. Please advise if you will accept service for the following receivership defendant listed below:

1. ATLAS TURNER INC.

Thank you,

LISA DITTEMORE | Paralegal



O: (214) 722-5990 | **D:** (214) 597-5554

302 N Market St, Suite 300
Dallas, TX 75202

www.dobslegal.com

Tuesday, October 3, 2023 at 20:29:59 Central Daylight Time

Subject: FW: #2023CP4004072; Perry vs. American Int'l Industries, et al. - Service on Receivership Defendant
Date: Tuesday, October 3, 2023 at 8:24:53 PM Central Daylight Time
From: Rachel Gross
To: Rachel Gross
Attachments: image001.jpg

From: Peter Protopapas <pdp@rplegalgroup.com>
Date: Tuesday, August 22, 2023 at 1:25 PM
To: Lisa Dittmore <ldittmore@dobslegal.com>, Lindsay Valek <Lindsay@rplegalgroup.com>, Danny Nieto <danny@rplegalgroup.com>
Cc: Trey Branham <tbranham@dobslegal.com>
Subject: RE: #2023CP4004072; Perry vs. American Int'l Industries, et al. - Service on Receivership Defendant

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I apologize for the delay in responding but we will accept service.

Sincerely

Peter

From: Lisa Dittmore <ldittmore@dobslegal.com>
Sent: Monday, August 7, 2023 6:00 PM
To: Peter Protopapas <pdp@rplegalgroup.com>; Lindsay Valek <Lindsay@rplegalgroup.com>; Danny Nieto <danny@rplegalgroup.com>
Cc: Trey Branham <tbranham@dobslegal.com>
Subject: #2023CP4004072; Perry vs. American Int'l Industries, et al. - Service on Receivership Defendant

Good afternoon Mr. Protopapas:

Attached please find the filed Summons, Complaint and Motion to Expedite for service of process in the above referenced case. Please advise if you will accept service for the following receivership defendant listed below:

1. ATLAS TURNER INC.

Thank you,

LISA DITTEMORE | Paralegal

LAW OFFICES OF

DOBS

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

**MICHAEL L. PERRY and
LONNIE L. LONG,**

Plaintiffs,

v.

**AMERICAN INTERNATIONAL
INDUSTRIES, et al.**

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

C/A NO. 2023-CP-40-04072*In Re:*Asbestos Personal Injury Litigation
Coordinated Docket**NOTICE OF MOTION AND
MOTION FOR DEFAULT JUDGMENT
AS TO ATLAS TURNER INC.**

YOU WILL PLEASE TAKE NOTICE that the undersigned as attorney for Plaintiffs will move the Court as soon as counsel may be heard for a judgment by default and a hearing on damages, in accordance with Rule 55 of the South Carolina Rules of Civil Procedure.

/s/ Theile B. McVey

Theile B. McVey (SC Bar No. 16682)

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October 4, 2023

Columbia, South Carolina.