

DAVIS-STANDARD CORPORATION, LLC;)
DEZURIK, INC. D/B/A DEZURIK-APCO)
 WILLIAMETTE EAGLE, INC.;)
FISHER-KLOSTERMAN, INC., AS)
 SUCCESSOR-IN-INTEREST TO BUELL)
 ENGINEERING CO.;)
FLOWSERVE CORPORATION)
 INDIVIDUALLY AND AS SUCCESSOR-IN-)
 INTEREST TO DURCO PUMPS;)
FLUOR ENTERPRISES, INC., F/K/A FLUOR)
 DANIEL, INC.,)
FLUOR DANIEL SERVICES CORPORATION;)
FOSTER WHEELER ENERGY)
CORPORATION;)
GENERAL ELECTRIC COMPANY;)
THE GORMAN-RUPP COMPANY;)
GOULDS PUMPS, INCORPORATED;)
INGERSOLL-RAND COMPANY;)
LINDE, LLC F/K/A THE BOC GROUP, INC.,)
 F/K/A AIRCO, INC.;)
MARSULEX ENVIRONMENTAL)
TECHNOLOGIES CORPORATION,)
 INDIVIDUALLY AND AS SUCCESSOR-IN-)
 INTEREST TO BUELL ENGINEERING CO.;)
MARSULEX ENVIRONMENTAL)
TECHNOLOGIES, LLC, AS SUCCESSOR-IN-)
 INTEREST TO BUELL ENGINEERING CO.;)
METROPOLITAN LIFE INSURANCE)
COMPANY, A WHOLLY-OWNED SUBSIDIARY)
 OF METLIFE INC.;)
PEERLESS PUMP COMPANY;)
PRESNELL INSULATION, INC.;)
RILEY POWER, INC., INDIVIDUALLY AND AS)
 SUCCESSOR-IN-INTEREST TO BABCOCK)
 BORSIG POWER, INC., AND RILEY STOKER)
 CORPORATION, INDIVIDUALLY AND AS)
 SUCCESSOR-IN-INTEREST TO D.B. RILEY;)
SCAPA WAYCROSS, INC.;)
SEPCO CORPORATION;)
SPX COOLING TECHNOLOGIES, INC., F/K/A)
 MARLEY COOLING TECHNOLOGIES, INC.,)
 F/K/A THE MARLEY COOLING TOWER CO.;)
STERLING FLUID SYSTEMS (USA) LLC;)
TRANE U.S., INC., F/K/A AMERICAN)
 STANDARD, INC., F/K/A AMERICAN)
 RADIATOR & STANDARD)

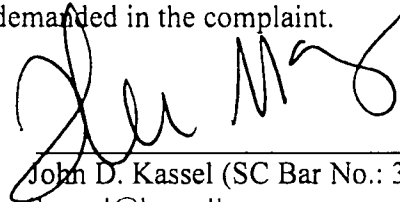
MANUFACTURING COMPANY;
UNION CARBIDE CORPORATION;
UNIROYAL, INC., F/K/A UNITED STATES
RUBBER COMPANY, INC.;
UNITED CONVEYOR CORPORATION;
VELAN VALVE CORP.;
VIKING PUMP, INC.;
WARREN PUMPS LLC;
YUBA HEAT TRANSFER CORPORATION;
ZURN INDUSTRIES,

DEFENDANTS.

FIRST AMENDED SUMMONS

TO: THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.



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ATTORNEYS FOR PLAINTIFFS

September 21, 2016

Spartanburg, South Carolina.

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VELAN VALVE CORP.;
VIKING PUMP, INC.;
WARREN PUMPS LLC;
YUBA HEAT TRANSFER CORPORATION;
ZURN INDUSTRIES,

DEFENDANTS.

FIRST AMENDED COMPLAINT

NOW COME the Plaintiffs, Timothy W. Howe, Individually and as Personal Representative of the Estate of Wayne Ervin Howe, deceased, and Jeanette Howe, citizens and residents of the State of South Carolina, through their counsel and sues the Defendants and alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiffs are citizens and residents of the State of South Carolina.
2. The decedent died on March 7, 2016, in York County, Hospice and Community care, Rock Hill, SC 29732. The cause of death was Malignant Mesothelioma. The decedent had been diagnosed with Mesothelioma on or about May 19, 2015.
3. Decedent Wayne Ervin Howe, deceased, was a citizen and resident of the State of South Carolina. Timothy W. Howe, Personal Representative, is the son Wayne Ervin Howe and a citizen of South Carolina.
4. The Defendant, **Air & Liquid Systems Corp.**, individually and as successor-in-interest to Buffalo Pumps, Inc., is a corporation organized and existing under the laws of the State of Pennsylvania with a principal place of business in Pennsylvania, and can be served with process at its office at 874 Oliver Street, North Tanawanda NY 14120-3298 or through its registered agent located at CT Corporation, 116 Pine St, Suite 320, Harrisburg, PA 17101.
5. The Defendant, **Airco, Inc.**, is a corporation organized and existing under the laws of the State of Delaware with a principal place of business in New Jersey, and can be served with process at its office at 575 Mountain Avenue, Murray Hill, NJ 07974 or through its registered agent the North Carolina Secretary of State located at 2 South Salisbury Street, Raleigh, NC 27601.
6. The Defendant, **Airgas USA, LLC.** formerly known as National Welding Supply Inc., is a limited liability company organized and existing under the laws of the State of Delaware with a principal place of business in Pennsylvania, and can be served with process at

its office at 259 North Radnor-Chester Road, Radnor, PA 19087 or through its registered agent CT Corporation System located at 150 Fayetteville Street, Box 1011, Raleigh, NC 27601.

7. The Defendant, **Albany International Corp.**, is the successor in interest to Mount Vernon Group d/b/a Mount Vernon Dryer Fabrics and the successor in interest to Geschmay Corporation. Upon information and belief, Albany International Corp. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located in Rochester, New Hampshire, and can be served with process at its office at 975 Old Norcross Road, Suite A, Lawrenceville, Georgia 30045, or through its South Carolina registered agent, CT Corporation System, 2 Office Park Court, Columbia SC 29223, or at its office at 216 Airport Drive, Rochester, NH 03867.

8. The Defendant, **Asten-Johnson, Inc.**, is a corporation organized and existing under the laws of the State of Delaware with a principal place of business in Charleston, South Carolina and can be served with process at its office at 4399 Corporate Road, Charleston, SC 29405 or through its office located at 400 Asten Road, Clinton, SC 29325 or through its registered agent, CT Corporation System, 75 Beattie Place, Greenville, SC 29601.

9. The Defendant, **Aurora Pump Company**, is a corporation organized and existing under the laws of the State of Minnesota with a principal place of business in Illinois, and can be served with process at its office at c/o Pentair, 800 Airport Road, North Aurora, IL 60542 or through its office located at c/o Lynette Jones, 13515 Ballantyne Corp. Pl., Charlotte NC 28277.

10. The Defendant, **A.W. Chesterton Company**, is a corporation organized and existing under the laws of the State of Massachusetts with a principal place of business in Massachusetts, and can be served with process through its registered agent, CT Corporation System, 2 Office Park Court, Suite 103, Columbia, SC 29223

11. The Defendant, **Beloit Corporation**, is a corporation organized and existing under the laws of the State of Delaware with a principal place of business in Springfield, and can be served with process through its registered agent, Lexis Documents Services, 801 Adlai Stevenson Drive, Springfield, 62703.

12. The Defendant, **Black Clawson Converting Machinery LLC**, is a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Pennsylvania, and can be served with process c/o registered agent, CT Corporation System, can be served through its registered agent office at c/o Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington DE 19808.

13. The Defendant, **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, is a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Pennsylvania, and can be served with process c/o registered agent, CT Corporation System, 75 Beattie Place, Two Insignia Financial Plaza, Greenville, SC 29601, or through its registered agent office at c/o Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington DE 19808.

14. The Defendant, **CGR Products, Inc.** f/k/a Carolina Gasket and Rubber Company, Inc., is a corporation organized and existing under the laws of the State of North Carolina with a principal place of business in North Carolina, and can be served with process at its registered agent office at 100 North Greene Street, Suite 600, Greensboro, NC 27401 or through its office located at 4655 US Highway 29 North, Greensboro, NC 27405.

15. The Defendant, **CNA Holdings, Inc.**, f/k/a Hoechst Celanese Corporation, is a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Texas, and can be served with process at Registered Agent, CT Corporation System, 2 Office Park Court, Suite 103, Columbia, SC 29223.

16. The Defendant, **Celanese Corporation** f/k/a Hoechst Celanese Corporation (sued individually and as successor in-interest-to Fiber Industries, Inc.), is a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Texas, and can be served with process at Registered Agent, The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801.

17. The Defendant, **Cleaver Brooks, Inc.**, individually and as successor-in-interest to Aquachem, is a corporation incorporated under the laws of the State of Delaware, having its principal place of business located in the State of Georgia, and can be served with process at Registered Agent, Corporation Service Company, 1703 Laurel Street, Columbia, SC 29201.

18. The Defendant, **Covil Corporation**, is a corporation incorporated under the laws of the State of South Carolina, having its principal place of business in the State of South Carolina, and can be served with process at Covil Corporation c/o Jim Covil, 5 Woodfern Circle, Greenville, SC 29615 or at Registered Agent, Greenville Process Service, Greengate Office Park, 25 Woods Lake Road, Suite 216, Greenville, SC 29607.

19. The Defendant, **Crane Co.** is a corporation organized and existing under the laws of the State of Delaware with a principal place of business in Connecticut and can be served with process through its registered agent office located at The Corporation Trust Company, 1209 Orange Street, Wilmington DE 19801, or its registered office of CT Corporation System, 111 Eighth Avenue, NY, NY 10011.

20. The Defendant, **Crown Cork & Seal Company, Inc.**, is a corporation organized and existing under the laws of the State of Pennsylvania with a principal place of business in Pennsylvania, and can be served with process at its office at 1 Crown Way, Philadelphia PA 19154.

21. The Defendant, **Daniel International Corporation**, is a corporation organized and existing under the laws of the State of South Carolina with its principal place of business in South Carolina, and can be served with process at its office at 100 Fluor Daniel Drive, Greenville SC 29607, or through its South Carolina registered agent, John R. Reynolds, 100 Fluor Daniel Drive, Greenville SC 29607.

22. The Defendant, **Davis-Standard Corporation, LLC**, is a corporation organized and existing under the laws of the State of Delaware with a principal place of business in

Delaware, and can be served with process through its registered agent office located at Corporation Service Company, 2711 Centerville Rd. Suite 400, Wilmington, DE 19808.

23. The Defendant, **Dezurik, Inc.**, was and is a company incorporated under the laws of the State of Delaware with its principal place of business in Sartell, MN, it can be served through its registered agent, Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

24. The Defendant, **Fisher-Klosterman, Inc.**, is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Kentucky, and may be served with process at its office at 10000 Shelbyville Road, Suite 101, Louisville, KY 40223, or through its registered agent, Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

25. The Defendant, **Flowserve Corporation**, is a corporation incorporated under the laws of the State of New York with its principle place of business in New York, and can be served with process at its Registered Agent CT Corporation System, C.T. Corporation System, 120 South Central Avenue Clayton, Missouri 63105.

26. The Defendant, **Fluor Enterprises, Inc.**, f/k/a Fluor Daniel, Inc., is a corporation organized and existing under the laws of the State of California, and can be served with process at its office at 3 Polaris Way, Aliso Viejo, CA 92698, or through its South Carolina registered agent, Corporation Service Company, 1703 Laurel Street, Columbia SC 29201.

27. The Defendant, **Fluor Daniel Services Corporation**, is a corporation organized and existing under the laws of the State of Delaware and can be served with process at its office at 100 Fluor Daniels Drive, Greenville SC 29607, or through its South Carolina registered agent, Corporation Service Company, 1703 Laurel Street, Columbia SC 29201.

28. The Defendant, **Foster Wheeler Energy Corporation**, is a corporation incorporated under the laws of the State of Delaware, having its principal place of business in New Jersey, and can be served with process through its Registered Agent, CT Corporation System, 2 Office Park Court, Suite 103, Columbia SC 29223, or at its office located at Perryville Corporate Park, Route 78, Clinton NJ 08809.

29. The Defendant, **General Electric Company**, is a corporation incorporated under the laws of the State of New York, having its principal place of business located in the State of Connecticut, and can be served with process Registered Agent, CT Corporation System, 2 Office Park Court, Suite 103, Columbia SC 29223.

30. The Defendant, **The Gorman-Rupp Company** a/k/a The Gorman-Rupp International Company, is a corporation incorporated under the laws of the State of Ohio, having its principal place of business located in Ohio, and can be served with process at through its Ohio Registered Agent, Corporation Services Company, 50 West Broad Street, Suite 1800, Columbus Ohio 43215, or through the corporate office address of 180 Hines Avenue, Bellville OH 44813, or its corporate address at 600 South Airport Road, Mansfield OH 44901.

31. The Defendant, **Goulds Pumps, Incorporated**, is a corporation organized and existing under the laws of the State of Delaware and can be served with process through its office located at 240 Fall Street, Seneca Falls, NY 131148, or through its registered agent, c/o CT Corporation System, 2 Office Park Court, Suite 103 Columbia, SC 29223.

32. The Defendant, **Ingersoll-Rand Company** is a New Jersey company with its principal place of business in Davidson, North Carolina and can be served with process through its South Carolina registered agent office located at CT Corporation System, 2 Office Park Court, Columbia SC 29223 or its corporate office at 800-E Beaty Street, Davidson, NC 28036.

33. The Defendant, **Linde, LLC**, is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in New Jersey, and can be served with process at its office at 575 Mountain Avenue, Murray Hill, NJ 07974 or through its registered agent Corporation Service Company at 327 Hillsborough Street, Raleigh, NC 27603.

34. The Defendant, **Marsulex Environmental Technologies Corporation**, is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Pennsylvania and can be served with process at its office at 200 North 7th Street, Lebanon, PA 17406 or through its registered agent Corporation Service Company at 2595 Interstate Drive, Suite 103, Harrisburg, PA 17110.

35. The Defendant, **Marsulex Environmental Technologies, LLC**, is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in Pennsylvania and can be served with process at its office at 200 North 7th Street, Lebanon, PA 17406 or through its registered agent Corporation Service Company at 2595 Interstate Drive, Suite 103, Harrisburg, PA 17110.

36. The Defendant, **Metropolitan Life Insurance Company**, a wholly-owned subsidiary of MetLife, Inc., is a corporation organized and existing under the laws of the State of New York with its principal place of business in New York, and can be served with process at its office at 200 Park Ave., New York, NY 10166, or at its office at One Madison Avenue, New York NY 10010, or at c/o United Corporate Services, Inc., 160 Cassell Road #144, Harleysville, PA 19438-2009.

37. The Defendant, **Peerless Pump Company** aka Peerless Industries Inc., is a corporation organized and existing under the laws of the State of Indiana and can be served with process through its office located at c/o ALCO Products, 1515 Market Street, Philadelphia PA 19102, or at its office at 2005 Dr. Martin Luther King Jr. Street, Indianapolis, IN 46202, or at SFS (USA) Holding Inc. d/b/a Peerless Pump Company, c/o CT Corporation System, 150 Fayetteville St., Box 1011, Raleigh, NC 27601.

38. The Defendant, **Presnell Insulation, Inc.**, is a corporation incorporated under the laws of the State of North Carolina, having its principal place of business located in North Carolina, and can be served with process at Registered Agent, Jackson T. Presnell 3717 Flowerfield Rd., Charlotte, NC 28210.

39. The Defendant, **Riley Power, Inc.**, individually and as successor-in-interest to Babcock Borsig Power, Inc., and Riley Stoker Corporation, individually and as successor-in-interest to D.B. Riley, is a corporation incorporated under the laws of the State of Massachusetts, having its principal place of business located in the State of Massachusetts, and can be served with process c/o Registered Agent, CT Corporation System, 2 Office Park Court, Suite 103, Columbia, SC, 29223.

40. The Defendant, **Scapa Waycross, Inc.**, is a corporation organized and existing under the laws of the State of Philadelphia, and can be served with the process through its registered agent located at CT Corporation System, 1201 Peachtree Street NE, Fulton, Atlanta, GA, 30361, USA.

41. The Defendant, **SEPCO Corporation**, is a corporation organized and existing under the laws of the State of California, and can be served with process through its registered agent located at CT Corporation System, 818 West Seventh Street, Suite 930, Los Angeles CA 90017.

42. The Defendant, **SPX COOLING TECHNOLOGIES, INC.** f/k/a Marley Cooling Technologies, Inc., f/k/a The Marley Cooling Tower Company, is a company incorporated under the laws of the State of Delaware, having its principal place of business located in Wisconsin, and can be served with process at Registered Agent, CT Corporation System, 2 Office Park Court, Suite 103, Columbia SC 29223.

43. The Defendant, **Sterling Fluid Systems (USA) LLC** is a Delaware company and can be served with process through its registered agent office located at c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

44. The Defendant, **Trane U.S. Inc.**, f/k/a American Standard, Inc., f/k/a American Radiator & Standard Manufacturing Company, is a corporation incorporated under the laws of the State of Delaware, having its principal place of business located in Wisconsin, and can be served with process at Registered Agent, CT Corporation System, 2 Office Park Court, Suite 103, Columbia SC 29223.

45. The Defendant, **Union Carbide Corporation**, is a corporation incorporated under the laws of the State of Missouri and can be served with process at its Registered Agent CT Corporation System, 120 South Central Avenue, Clayton, Missouri 63105.

46. The Defendant, **Uniroyal, Inc.**, f/k/a United States Rubber Company, Inc. is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business in Connecticut, and can be served with process at its office at c/o Uniroyal Holding, Inc., 70 Great Hill Road, Naugatuck CT 06770, or at P.O. Box 19001, Greenville, SC 29602-9001.

47. The Defendant, **United Conveyor Corporation**, is a corporation incorporated under the laws of the State of Illinois, having its principal place of business located in Illinois, and can be served with process at United Conveyor Corporation Corporate Headquarters, 2100 Norman Drive W., Waukegan, IL 60085 or at Registered Agent, Prentice Hall Corporation, 2019

Park Street, Columbia, SC 29201, or through its registered agent located at Illinois Corporation Service, 801 Adlai Stevenson Drive, Springfield, IL 62703-4261.

48. The Defendant, **Velan Valve Corp.**, is a corporation organized and existing under the laws of the State of Delaware and can be served with process at its office at 94 Avenue C, Williston VT 05495-9732 or through its South Carolina registered agent, Corporation Service Company, 1703 Laurel Street, Columbia SC 29201.

49. The Defendant, **Viking Pump, Inc.**, is a corporation organized and existing under the laws of the State of Delaware and can be served with process through its registered agent office located at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

50. The Defendant, **Warren Pumps LLC** is a limited liability company organized and existing under the laws of the State of Delaware and can be served with process through its registered agent office located at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801 or its registered agent at CT Corporation System, 155 Federal Street, Suite 700, Boston MA 02110.

51. The Defendant, **Yuba Heat Transfer Corporation**, is a limited liability company organized and existing under the laws of the State of Delaware and can be served with process through its registered agent office located at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

52. The Defendant, **Zurn Industries**, is a corporation organized and existing under the laws of the State of Delaware and can be served with process through its registered agent, CT Corporation System, 2 Office Park Court, Suite 103, Columbia, SC, 29223.

53. The acts and omissions of the Defendants named herein occurred at various worksites including those located in South Carolina.

54. Defendants are corporations who are amenable to jurisdiction in the Courts of South Carolina by virtue of their contacts with the State of South Carolina or systematic business in South Carolina which subjects them to jurisdiction pursuant to the South Carolina Long-Arm Statute.

55. Venue is proper in York County, South Carolina.

56. The Court has jurisdiction over the subject matter of this action.

BACKGROUND FACTS

57. The Decedent, Wayne Ervin Howe, was born August 5, 1945, and was diagnosed with malignant mesothelioma on May 19, 2015.

58. Decedent during the pertinent times worked as a pipefitter, manual laborer, general construction worker, and steel worker who for a long period of time, frequently, regularly and proximately worked with and was exposed to the asbestos and asbestos-related materials mined, manufactured, processed, imported, converted, compounded, or sold by the asbestos product manufacturing and selling Defendants, or with regard to which Defendants otherwise had responsibility, with some of the exposure being within the State of South Carolina.

59. Decedent during the pertinent times engaged in work activities pertaining to pumps, valves, precipitators, mechanic work, welding, replacing siding, and millwright work.

60. Decedent during the pertinent times engaged in work at various jobsites including, without limitation, one or more facilities of Hoechst Celanese also known as Fiber Industries including Rock Hill, South Carolina and Narrows, Virginia; American Enka in Enka, North Carolina; and the Bowater facility in Rock Hill, South Carolina.

61. Decedent during the pertinent times was regularly, frequently, and proximately exposed to asbestos dust and fibers from products, services, and goods manufactured, distributed, or sold by the asbestos product manufacturing and selling Defendants for use at Decedent's jobsites which he came in contact with on the premises of multiple companies.

62. As a result of the improper conduct of the Defendants, Decedent Wayne Ervin Howe developed the asbestos cancer known as Mesothelioma.

63. The asbestos product manufacturing and selling Defendants owned, operated, or supplied asbestos containing materials or services to Decedent's worksites including those throughout South Carolina, at which Decedent Wayne Ervin Howe, worked, or entered for purposes of work, and in which Decedent was exposed to asbestos dust from asbestos containing materials.

64. Defendants knew, or should have known, at all times relevant hereto that exposure to asbestos dust and fibers were a known risk factor in the development of potentially fatal lung disease including malignant mesothelioma.

65. The risks involved with the products and materials at issue in this matter pertaining to asbestos dangers did not amount to an open and obvious risk or a risk that was a matter of common knowledge.

66. Decedent Wayne Ervin Howe was diagnosed in May 2015 with malignant mesothelioma, a fatal disease caused solely by exposure to asbestos fibers and dust. This exposure occurred as a result of his exposure to asbestos dust and fibers that he came in contact with on various jobsites in South Carolina.

67. At all times mentioned herein, Defendants acted through their duly authorized agents, servants, and employees who were at all times relevant herein acting within the scope and course of their employment. At the time of its manufacture the manufacturers acted unreasonably in designing or formulating the relevant products, and this conduct was a proximate cause of the harm for which damages are sought.

68. Mesothelioma is a progressive, insidious disease and Decedent's asbestos dust and fiber exposure in South Carolina to the Defendants products or on the Defendant's premises and for which Defendants are otherwise liable contributed to the Decedent's contraction of his disease.

69. Decedent's diagnosis of mesothelioma was caused by breathing asbestos dust and fibers from asbestos-containing products or asbestos containing materials at Defendant's premises or with regard to the products the Defendants manufactured and sold.

70. Decedent have obtained and attached as **Exhibit A** hereto, a report by a physician who is appropriately board-certified, in compliance with S.C. Code §§ 44-135-50(A)(1), 44-135-70 and 44-135-80.

71. As a result of the development of mesothelioma caused by breathing asbestos dust and fibers from defendants' asbestos-containing products and exposures due to defendants' negligent acts and omissions, listed herein and that will be further identified in this suit, Decedent has suffered and sustained very serious life threatening injuries, specifically mesothelioma, requiring extensive and painful medical treatment.

72. Decedent has further suffered great pain and mental anguish as a direct result of the aforesaid injuries. The illness and disability of Decedent was the direct and proximate result of the negligence, recklessness and willfulness of the Defendants, in that each produced, sold and otherwise put into the stream of interstate commerce, asbestos and asbestos-related materials which the Defendants knew were deleterious, poisonous and highly harmful.

73. Decedent believes that his injuries and illnesses are permanent in nature and that he will be forced to suffer same for the remainder of his life, that his enjoyment of life has been greatly impaired and, further, that his expected life span has been greatly shortened.

74. Decedent alleges that as a result of the aforesaid illnesses, he has been forced to incur large amounts of medical expenses by way of doctor and drug bills and verily believes that he will be forced to incur additional expenses in an effort to treat his illnesses as aforesaid, all to Decedent's damage, compensatory and punitive in amounts to be determined by the trier of fact.

75. Decedent alleges that as a result of the aforesaid illnesses, he is no longer able to provide the same services, comfort, society, consortium, companionship and protection to his wife, Plaintiff Jeanette Howe which damages are continuing in nature.

76. As a direct and proximate result of the Defendants' conduct as alleged above, the Decedent has suffered a dramatic reduction of his life expectancy, incurred great mental and physical pain and suffering, sustained lost wages and lost earning capacity, incurred medical

expenses, and his enjoyment of life has been greatly impaired, which damages are continuing in nature.

FIRST CAUSE OF ACTION
Negligent Failure to Warn and Defective Product Design

77. Plaintiffs incorporate herein by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

78. Defendants (or their predecessors in interest or parties with whom they acted in concert), and each of them, are or at times relevant hereto, were miners, manufacturers, processors, importers, converters, compounders and/or retailers of asbestos and asbestos-containing materials or otherwise profited from asbestos related services. In the case of Defendant Metropolitan Life Insurance Company, it owed a duty to Decedents and is liable as alleged in the fourth cause of Action below.

79. Defendants, acting through their agents, servants, and/or employees have caused certain asbestos and asbestos-containing materials to be placed in the stream of interstate commerce with the result that said asbestos and asbestos-containing materials came into use and released fiber by or in the vicinity of the Decedent Wayne Ervin Howe, or were otherwise negligent. The asbestos manufacturing and selling Defendants negligently produced, sold, supplied or otherwise put into the stream of commerce asbestos and asbestos-containing products or machinery requiring the use of asbestos and/or asbestos-containing products.

80. During the course and scope of his employment at the named facilities or with the named manufacturers and their products, Decedent Wayne Ervin Howe was exposed to Defendants' asbestos dust and fibers and asbestos-containing materials or was otherwise injured due to asbestos exposure for which Defendants are responsible.

81. Defendants owned, operated, or manufactured materials used at and supplied worksites in South Carolina, at which Decedent worked, or entered for purposes of work, and from which he was subsequently exposed to asbestos containing materials including asbestos dust and asbestos fibers. Defendants knew, or should have known, at all times relevant hereto that exposure to asbestos fiber and dust was a known risk factor in the development of potentially fatal lung disease including malignant mesothelioma.

82. Defendants knew, or should have known, that Decedent Wayne Ervin Howe, or others similarly situated, would come in contact with the asbestos containing products for which Defendant may be liable. As a designer, developer, manufacturer, distributor, supplier, installer or seller of the above-described asbestos and asbestos-containing products, Defendants each owed a duty to foreseeable users, handlers and bystanders to such use of said products to use ordinary care in designing, manufacturing, marketing, supplying and selling said products in such a manner as to render them safe for their intended and foreseeable uses.

83. Defendants knew, or should have known, that Decedent Wayne Ervin Howe, or others similarly situated, would be in danger of developing fatal asbestos diseases such as the asbestos cancer known as mesothelioma as a result of such exposure.

84. The dangers of breathing asbestos dust and fibers were first published in the medical literature in the 1890s. By the late 1950s, there were hundreds of medical articles highlighting the dangers of being around asbestos dust. Defendants knew or should have known that the asbestos fibers contained in the relevant products had a toxic, poisonous, and highly deleterious effect upon the health of persons inhaling, ingesting or otherwise absorbing them.

85. Defendants have known or should have known since the early 1900s of scientific literature that clearly indicated that workers could carry home on their work clothes industrial dust and fiber, such as asbestos, thereby exposing their family members to the hazards of asbestos. By the 1960s, studies were being published on the occurrence of asbestos disease, including mesothelioma, in family members of workers exposed to asbestos.

86. The illness, disability, and of the Decedent is the direct and proximate result of the negligence, recklessness and willfulness of the Defendants, jointly and severally, in that they produced, sold and otherwise put into the stream of interstate commerce, asbestos and asbestos-containing materials which the Defendants, and each of them, knew were deleterious, poisonous and highly harmful to Decedent's body, lungs, respiratory system, skin and health.

87. Defendants owed a duty of care toward the Decedent. Defendants breached that duty by their negligent acts and omission.

88. Defendants knew, or, in the exercise of ordinary care, should have known, that the asbestos and asbestos-containing materials were deleterious, poisonous and highly harmful to Decedent's body, lungs, respiratory system, skin and health. At the time the products left the control of the manufacturers, the manufacturers unreasonably failed to adopt a safer, practical, feasible, and otherwise reasonable alternative design or formulation that could then have been reasonably adopted and that would have prevented or substantially reduced the risk of harm without substantially impairing the usefulness, practicality, or desirability of the products. Defendants acted negligently, recklessly and willfully in that the Defendants:

- (a) Failed to advise Decedent of the dangerous characteristics of their asbestos and asbestos-containing products;
- (b) Failed or omitted to provide the Decedent with the knowledge as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliance, if, in truth, they were in any way able to mitigate the dust to protect himself and his family from being poisoned and disabled by exposure to such deleterious and harmful asbestos-containing materials;
- (c) Failed and omitted to place any warnings or sufficient warnings on their containers or premises of said asbestos and asbestos materials to warn the handlers thereof of the dangers to their health in coming in contact with said asbestos and asbestos materials;
- (d) Failed and omitted to take reasonable precautions or to exercise reasonable care to publish, adopt and enforce a safety plan and a safe method of handling and installing said asbestos and asbestos materials;

- (e) Inadequately warned, if, in fact, they warned at all, persons such as Decedent of the dangers to their health in coming in contact with and breathing said asbestos and asbestos-containing materials, even after they knew of the dangers and cancer-causing effects, and up until the present time;
- (f) Did not recommend methods to improve the work environment;
- (g) Did not use, implement or develop alternative products that were available;
- (h) Continued to use a known cancer-causing product, to wit: asbestos;
- (i) Including asbestos in relevant products, and using asbestos even though it was foreseeable that persons such as Decedent would inhale, ingest or otherwise absorb asbestos;
- (j) Including asbestos in relevant products, and using asbestos when the Defendants knew or should have known that asbestos would have a toxic, poisonous and highly deleterious effect upon the health of persons inhaling, ingesting or otherwise absorbing them such as Decedent;
- (k) Including asbestos in products and using asbestos when adequate substitutes for asbestos were available;
- (l) Failing to adequately warn persons working with and around the products of the dangers of inhaling, ingesting or otherwise absorbing the asbestos fibers;
- (m) Failing to provide any or adequate instructions concerning the safe methods of working with and around the products, including specific instructions on how to avoid inhaling, ingesting or otherwise absorbing the asbestos fibers and how to properly and safely remove the asbestos dust from their clothes, possessions, and vehicles to avoid further exposure;
- (n) Failing to conduct tests on the asbestos-containing products manufactured, sold, delivered or installed by the Defendants in order to determine the hazards to which persons such as Decedent might be exposed while working with or around them;
- (o) Designing, manufacturing and selling equipment, machinery, technologies and systems that included asbestos-containing components and required and/or specified the use of asbestos-containing replacement components;
- (p) Failing to comply with governmental regulations designed to reduce exposure to asbestos; and
- (q) Being otherwise negligent and liable for defective failure to warn and defective design.

89. At all times relevant, it was feasible for Defendants to have warned Decedents, tested their asbestos products, designed safer asbestos products and/or substituted asbestos-free products.

90. In the alternative, subsequent to the time the Defendants caused the asbestos products to be sold and distributed, the Defendants knew, or in the exercise of ordinary care, should have known, that asbestos is deleterious, carcinogenic, and harmful to persons using buildings, equipment, or on jobsites, but nevertheless, the Defendants negligently and recklessly failed and refused to warn and advise the Decedent of the dangerous characteristics thereof, and the dangers to the health and welfare of persons coming in contact with and breathing products. Despite possessed with information uniquely available to them relating to the dangerous effects to the person of continued asbestos exposure, the Defendants did not provide that information to the Decedent.

91. The Defendants had a post-sale duty to warn, which duty was breached and, as a result, Decedent suffered injury and damages as hereinafter described. In addition, or in the alternative, after the products left the control of the manufacturers and sellers, the manufacturers and sellers became aware of or in the exercise of ordinary care should have known that the product posed a substantial risk of harm to a reasonably foreseeable user or consumer and failed to take reasonable steps to give adequate warning or instruction or to take other reasonable action under the circumstances.

92. Decedent has suffered continuing and lingering injury to himself due to the Defendants' asbestos fibers, which he inhaled while doing performing assignments on various jobsites. Said fibers, once inhaled, caused repeated and continuing injury to Decedent.

93. As a direct and proximate result of one or more of the foregoing acts and/or omissions on the part of the Defendants, Decedent sustained exposure to and inhaled, ingested or otherwise absorbed asbestos fibers causing mesothelioma, and has suffered injury and is entitled to damages in an amount to be proven at trial.

SECOND CAUSE OF ACTION
Implied Warranty of Merchantability

94. Plaintiffs incorporate herein by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

95. The Defendants, and each of them, impliedly warranted that their relevant products, equipment and asbestos materials were of good and merchantable quality and fit for their intended use.

96. The implied warranty made by the Defendants, and each of them, that the asbestos and asbestos-containing materials were of good and merchantable quality and for the particular intended use was breached and that certain harmful, poisonous and deleterious matter was given off into the atmosphere wherein the Decedent carried out his duties working with asbestos and asbestos-containing materials.

97. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality, Decedent developed mesothelioma and/or other industrial dust diseases caused by breathing the asbestos dust and fibers from Defendants' asbestos-containing products.

THIRD CAUSE OF ACTION

Strict Liability

98. Plaintiffs incorporate herein by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

99. During the pertinent times, Decedent was injured by his exposure to asbestos fibers associated with the products and equipment manufactured and sold by the Defendants.

100. Defendants' relevant products and equipment was at the time of the harmful asbestos exposure in materially the same condition or in a deteriorated condition it was reasonably foreseeable to become when it left the hands of the Defendants.

101. Decedent injury herein occurred because the products and the equipment of the Defendants were in a defective condition unreasonably dangerous to the user.

102. At the time the Defendants, and each of them sold and/or delivered the aforesaid asbestos and asbestos-containing products and at the time said products were used by or around Decedent or by others in his vicinity in the manner and environment intended, they were in a defective condition and were unreasonably dangerous and unfit for their intended use in that they were deleterious, poisonous and highly harmful to Decedent. The above was the proximate cause of the severe damages sustained by the Decedent as herein set forth.

FOURTH CAUSE OF ACTION

Conspiracy, Concert of Action – Defendant Metropolitan Life Insurance Company

103. Plaintiffs incorporate herein by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

104. 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.

105. 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.

106. 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.

107. 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 Decedent breathed asbestos dust which resulted in Decedent'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 Decedent herein.

108. Defendant Met Life rendered substantial aid and assistance to the manufacturers of asbestos-containing products to which Decedent 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 Decedent's illness.

109. 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.

110. Decedent 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.

111. 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 Decedent from asbestos exposure was increased, and (ii) Decedent suffered the injuries described herein.

112. 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 co-conspirators 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 Decedent.

113. Additionally and alternatively, as a direct and proximate result of Met Life's actions and omissions, Decedent was caused to remain ignorant of all the dangers of asbestos resulting in Decedent's, his employers, and the general public to be unaware of the true and full dangers of asbestos, depriving Decedent of the opportunity to decide for himself whether he wanted to take the risk of being exposed to asbestos, denied Decedent the opportunity to take precautions against the dangers of asbestos and proximately caused Decedent's damages herein.

114. During the relevant time period the Decedent was 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.

115. 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 Decedent, 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 Decedent in the course of or as a consequence of the conspiracy of 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 Decedent.

(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 Decedent 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 Decedent 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 Decedent 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.

116. Decedent 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.

117. As a direct and proximate result of the conspiracy and concert of action between Met Life, Manville and Raymark, the Decedent has 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, came in contact with asbestos dust or fibers contracted asbestos-related diseases and other conditions, and/or aggravated pre-existing conditions, as a result of which the Decedent was damaged.

FIFTH CAUSE OF ACTION
Punitive Damages

118. Plaintiffs incorporate herein by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

119. During the pertinent times, Defendants had actual knowledge of the dangers to individuals similarly situated to the Decedent of asbestos exposure, nevertheless, Defendants deliberately, intentionally and purposefully withheld such information, thus denying Decedent of the knowledge with which to take necessary safety precautions such as bagging her former husband's clothes or requiring him to leave them at work periodic x-rays and medical examinations and avoiding further dust exposure, the specifics of Defendants' intentional acts upon information and belief being as follows:

- (a) Failing to warn users of the need for monitoring due to asbestos exposure;
- (b) Never issuing recall-type letters or notices to users;
- (c) Rejecting advice of corporate officials and others to warn of the hazards of their products; such rejection being motivated by the possibility of adverse effects on profits;
- (d) Delaying the use of asbestos warnings and diluting the content of such warnings for asbestos-related products;
- (f) Failed to advise Decedent of medical findings known to Defendants concerning the dangers of asbestos exposure; and
- (g) Suppressed the dissemination of information to Decedent concerning the hazards of asbestos exposure.

120. The foregoing deliberate, intentional and purposeful acts of the Defendants were the direct and proximate cause of Decedent injuries, damages, and subsequent death hereinafter described, and the Decedent is therefore, entitled to compensation and punitive damages.

FOR AN SIXTH CAUSE OF ACTION
(Wrongful Death Action, S.C. Code Ann. § 15-51-10 (2008))

AS AND FOR A FURTHER SIXTH, SEPARATE, AND DISTINCT CAUSE OF ACTION FOR WRONGFUL DEATH, PLAINTIFF JEANETTE HOWE COMPLAINS OF DEFENDANTS, AND ALLEGES AS FOLLOWS:

121. All of the paragraphs above are incorporated by reference.

122. Decedent brings this cause of action for WAYNE ERVIN HOWE'S wrongful death pursuant to S.C. Code Ann. § 15-51-10 (2008), for the benefit of herself Jeanette Howe, as Mr. Howe's widow, and on behalf of the children of Wayne Ervin Howe, as defined by S.C. Code § 15-51-20 (2008).

123. As a direct and proximate result of the negligence, recklessness, carelessness and intentional actions of Defendants as described above, Wayne Ervin Howe died and his wife and children have and will endure grief, sorrow, loss of his love, society and comfort, loss of his advice and guidance and they have been otherwise seriously damaged. Moreover, funeral and medical expenses were incurred and Decedent prays for judgment against Defendants in such amount of actual and punitive damages as the trier of fact may determine.

FOR A SEVENTH CAUSE OF ACTION
(Survival Action, S.C. Code Ann. § 15-5-90 (1986))

AS AND FOR A FURTHER SEVENTH, SEPARATE, AND DISTINCT CAUSE OF ACTION IN THE FORM OF A STATUTORY SURVIVAL ACTION, PLAINTIFF JEANETTE HOWE COMPLAINS OF DEFENDANTS, AND ALLEGES AS FOLLOWS:

124. All paragraphs above are incorporated by reference.

125. Plaintiff brings this cause of action for Decedent's pain and suffering prior to his untimely death, for costs and expenses incurred by the Estate and for the overall benefit of her Estate, pursuant to S.C. Code § 15-5-90; -100 (1986).

126. As a direct and proximate result of the negligence, recklessness, carelessness and intentional actions of Defendants as described, Decedent endured pain, suffering, mental anguish and distress until her untimely death, and Plaintiff prays for judgment against Defendants in such amount of actual and punitive damages as the trier of fact may determine.

EIGHTH CAUSE OF ACTION
Loss of Consortium

127. Plaintiffs incorporate herein by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

128. Plaintiff Jeanette Howe is the spouse of Wayne Ervin Howe.

129. Due to the wrongful and tortuous acts of Defendant, Plaintiff Jeanette Howe has suffered pecuniary loss due to the loss of services of her husband, Wayne Ervin Howe.

130. Plaintiff Jeanette Howe has suffered and will continue to suffer in the future, damages including loss of affection, society, comfort, support, consortium, companionship and the protection of her husband.

131. Defendant's wrongful conduct, alleged above, was a direct and proximate cause of the damages suffered by Plaintiff Jeanette Howe.

WHEREFORE, Plaintiff Jeanette Howe demands judgment against Defendant for compensatory damages for a fair and reasonable amount as determined by the jury and for such other and further relief, both at law and in equity, as the Court may deem just and proper.

PETITION FOR EXPEDITED TRIAL

1. Pursuant to S.C. Code § 44-135-80(B), Plaintiff hereby petitions the Court requesting that a trial date be set on an expedited basis. Plaintiff shows that there is good cause for such an expedited trial setting in that the Plaintiff while grievously ill, is living and wishes to have his claims promptly adjudicated. Further, Defendants will not be prejudiced by such an expedited trial setting.

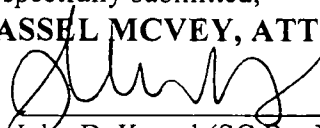
PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray to ask that this Court:

- A. Award the Plaintiffs actual and compensatory damages, in an amount to be determined at trial, for the wrongful, negligent, reckless and willful acts of the Defendants;
- B. Award the Plaintiffs pre-judgment and post-judgment interest to the extent allowable by law;
- C. Award the Plaintiffs punitive damages to the extent allowable by law;
- D. Award the Plaintiffs' attorney fees and costs to the extent allowable by law;
- E. Allow a trial by jury of all claims so triable; and
- F. For such other and further relief as may be just and proper.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,
KASSEL MCVEY, ATTORNEYS AT LAW



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August 9, 2016

Spartanburg, South Carolina.



DREXEL UNIVERSITY
School of
Public Health
Department of Environmental &
Occupational Health

Arthur L. Frank, MD, PhD
Professor, Chair Emeritus

November 4, 2015

William M. Graham, Esq.
Wallace and Graham, P.A.
Attorneys At Law
525 North Main Street
Salisbury, NC 28144

Re: Wayne Ervin Howe
DOB: 8/5/45

Dear Mr. Graham:

I am in receipt of medical records in the case of Mr. Howe and have been asked by you to review them and render my judgment regarding any evidence of an asbestos-related disease.

I am currently employed as Professor of Public Health at the Drexel University School of Public Health in Philadelphia. I received my medical degree from the Mt. Sinai School of Medicine in 1972 and during this time and thereafter I worked with Dr. Irving Selikoff regarding health issues related to exposure to asbestos. From 1973 to 1975 I served at the Lung Cancer Branch at the National Cancer Institute of the National Institutes of Health in Bethesda, Maryland and was a Commissioned Officer in the United States Public Health Service. I then returned to Mt. Sinai and completed two residencies, one in internal medicine and the other in occupational medicine. I became board certified in internal medicine in 1978 and in occupational medicine in 1979. I also have a PhD degree in biomedical sciences from the City University of New York having studied the effects of asbestos on respiratory tissue. From 1977 to 1983 I served on the faculty at Mt. Sinai.

From 1983 until 1994 I was Chair of the Department of Preventative Medicine and Environmental Health at the University of Kentucky, College of Medicine where I was a professor, and I was also a professor of toxicology. In 1994 I became Vice President for Medical Education at the University of Texas Health Center at Tyler and was also a Professor of Occupational and Environmental Medicine. In 2002 I became the Chair of the Department of Environmental and Occupational Health at Drexel University's School of Public Health in Philadelphia. I also served as a Professor of Medicine in the Division of Pulmonary Medicine at Drexel.

Over the years I have held a number of positions with the United States Government including service on the Board of Health as a scientific counselor for NIOSH, the National Institute for Occupational Safety and Health. I have chaired the grant review panel for NIOSH. I have done consulting work for NIOSH, OSHA, and the EPA. I currently serve on the Air Pollution Control Board for the City of Philadelphia.

Re: Wayne Ervin Howe
November 4, 2015
Page 2

I have also consulted with governments around the world including in China, Thailand, India, Brazil, Israel, and Egypt, among others regarding asbestos-related issues. In 1983 I was elected to the Collegium Ramazzini which is an international organization of physicians and scientists devoted to occupational and environmental health issues. Election to this group is limited to 180 active members. I have been active in the organization including service on the Executive Board. Currently, my time is divided between teaching, research, and service. I teach in our introductory course in environmental and occupational health, a course in occupational cancers, and give lectures in the area of occupational toxicology.

In reviewing the medical records of Mr. Howe I note that his treating doctors were aware of his prior exposures to asbestos. In March 2015 Mr. Howe presented with pain in his left chest and an X-ray revealed a large circumscribed mass along the left lateral chest wall. In May radiological testing made note of calcified pleural plaquing. When tissue was taken from his chest he was found to have a pleural-based malignancy that had spread. The surgical pathology report of May 2015 revealed that Mr. Howe developed a malignant pleural mesothelioma. This was then confirmed at Duke University by Dr. Sporn in September 2015.

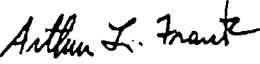
Having reviewed the deposition of Mr. Howe I learned of the details of Mr. Howe's exposure to asbestos. For example, he worked for some 15 years as a pipefitter. He also did work as a millwright, with additional exposures to asbestos. He was also known to do mechanical work on vehicles which included brake work. Through his testimony I also learned that he worked with asbestos-containing gaskets, siding, and other materials.

Based upon my review of the materials sent me, it is my opinion and diagnosis, to a reasonable degree of medical certainty, that Mr. Howe developed two asbestos-related conditions. First I believe he developed asbestos-related pleural disease, called by some asbestosis, given the finding of calcified pleural plaques. Secondly, and more importantly, Mr. Howe developed a malignant pleural mesothelioma as a result of his exposures to asbestos. The cumulative exposures he had to asbestos, from any and all products, containing any and all fiber types, would have led to his developing these conditions. Furthermore, based upon my review of the materials sent me it is my opinion, to a reasonable degree of medical certainty, that Mr. Howe's exposure to asbestos was a proximate cause of the diagnosed mesothelioma, and that Mr. Howe's illness is not more probably the result of other causes.

The hazards of asbestos have been known for more than a century, and the need to protect individuals was written about some 80 years ago.

Should you have any questions about this matter please feel free to contact me.

Sincerely yours,


Arthur L. Frank, MD, PhD
Professor of Public Health

ALF/kmw