

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM YORK COUNTY  
Court of Common Pleas

The Honorable Jean H. Toal  
Acting Circuit Court Judge

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Appellate Case No. 2019-000164  
Circuit Court Case No. 2015-CP-46-3456

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RECORD ON APPEAL  
(VOLUME III)

---

Timothy W. Howe, Individually and as Personal Representative of  
the Estate of Wayne Erwin Howe, Deceased, and Jeannette Howe ..... Respondents,

v.

Air & Liquid Systems Corp., Individually and as Successor-in-Interest to Buffalo Pumps, Inc; Airco, Inc.; Airgas USA, LLC, f/ka National Welding Supply, Inc.; Albany International Corp.; Asten-Johnson, Inc.; Aurora Pump Company; A.W. Chesterton Company; Beloit Corporation; Black Clawson Converting Machinery, LLC, Individually and as a Subsidiary of Davis-Standard LLC; 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; CGR Productions, Inc., f/k/a Carolina Gasket and Rubber Company; CNA Holdings, Inc., f/k/a Hoechst Celanese Corporation; Celanese Corporation f/k/a Hoechst Celanese Corporation (Sued Individually and as Successor-in-Interest to Fiber Industries, Inc.); Cleaver Brooks, Inc.; Covil Corporation; Crane Co.; Crown Cork & Seal Company, Inc.; Daniel International Corporation; 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; and Zurn Industries ... Defendants,

of whom

Cleaver-Brooks, Inc. is the ..... Appellant.

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Timothy W. Howe, Individually and as )  
Personal Representative of the Estate of )  
Wayne Ervin Howe, deceased, and Jeanette )  
Howe, )

Civil Action No. 2015-CP-46-03456

Plaintiff,

**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET**

v.

Air & Liquid Systems Corp., et al., )  
 )  
Defendant. )

FILED-RECEIVED  
2018 JAN 22 AM 11:59  
DAVID HAMILTON  
C.C.C.P. & GS  
YORK COUNTY SCS

Plaintiff's Attorney:  
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Defendant's Attorney:  
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- MOTION HEARING REQUESTED (attached written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER / CONSENT ORDER (complete SECTIONS II and III)

**SECTION I: Hearing Information**

Nature of Motion: Defendant Cleaver-Brooks, Inc.'s Motion for Protective Order  
Estimated Time Needed: 20 minutes Court Reporter Needed:  YES /  NO

**SECTION II: Motion/Order Type**

- Written motion attached
  - Form Motion/Order
- I hereby move for relief or action by the court as set forth in the attached proposed order.

[Signature]  
Signature of Attorney for  Plaintiff /  Defendant

1/18/2018  
Date Submitted

**SECTION III: Motion Fee**

- PAID - AMOUNT: \$ \_\_\_\_\_
- EXEMPT:
  - Rule to Show Cause in Child or Spousal Support
  - Domestic Abuse or Abuse and Neglect
  - Indigent Status  State Agency v. Indigent Party
  - Sexually Violent Predator Act  Post-Conviction Relief
  - Motion for Stay in Bankruptcy
  - Motion for Publication  Motion for Execution (Rule 69, SCRCP)
  - Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
- Name of Court Reporter: \_\_\_\_\_
- Other: \_\_\_\_\_

**JUDGE'S SECTION:**

- Motion fee to be paid upon filing of the attached order.
- Other: \_\_\_\_\_

JUDGE CODE: \_\_\_\_\_

Date: \_\_\_\_\_

**CLERK'S VERIFICATION**

Collected by: D. Yanbrock Date Filed: \_\_\_\_\_

MOTION FEE COLLECTED \$ 2500

CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
FOR THE SIXTEENTH JUDICIAL CIRCUIT

Timothy W. Howe, Individually and )  
as Personal Representative of the )  
Estate of Wayne Ervin Howe, )  
deceased, and Jeanette Howe, )  
 )  
Plaintiffs, )

Civil Action No. 2015-CP-46-03456

**DEFENDANT CLEAVER-BROOKS, INC.'S  
MOTION FOR PROTECTIVE ORDER**

v. )

Air & Liquid Systems Corp., et al., )  
 )  
Defendants. )

FILED-RECEIVED  
2018 JAN 22 AM 11:59  
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

Pursuant to South Carolina Rule of Civil Procedure 26 and any other applicable rule or law, Defendant Cleaver-Brooks, Inc. ("Cleaver-Brooks) respectfully requests this Court enter a protective order regarding Plaintiffs' Second Amended 30(b)(6) Notice of Deposition of Cleaver-Brooks ("the Notice) on the grounds that the Plaintiffs and Cleaver-Brooks are in the process of reaching an agreement on an alternate date and the production of relevant documents responsive to the Notice. Cleaver-Brooks further submits the following as grounds for its Motion for Protective Order:

Cleaver-Brooks manufactures boilers. Plaintiffs have alleged that Cleaver-Brooks manufactured a boiler used at the Bowater Paper Mill in Rock Hill/Catawba, South Carolina which contained asbestos to which the Plaintiff was exposed, and which exposure contributed to his alleged asbestos related injuries.

The parties have deposed the Plaintiff and all co-workers identified by Plaintiff, and no witness testified that the Plaintiff ever worked on or around any Cleaver-Brooks product that contained asbestos at the Bowater Paper Mill.

Despite this lack of testimony specifically linking the Plaintiff to a Cleaver-Brooks product, Cleaver-Brooks is working with the Plaintiffs to make available a witness for a 30(b)(6) Deposition, and to produce the documents requested by the Plaintiffs. Since issuing their Second Amended 30(b)(6) Notice of Deposition of Cleaver-Brooks dated January 9, 2018, which scheduled the deposition for Friday, January 19, 2018, counsel for Cleaver-Brooks and counsel for the Plaintiffs have conferred extensively regarding the scope and nature of the deposition, as well as the documents to be produced. On January 11, 2018, counsel for Cleaver-Brooks produced a collection of documents regarding its shipment of a boiler to the Bowater Paper Mill, pursuant to an agreement with Plaintiffs' counsel.


On January 15, 2018, Plaintiffs' counsel indicated that they had reviewed those documents and the testimony of the Plaintiff and co-workers, and had determined that additional documents were necessary to properly respond to the Notice of Deposition. Cleaver-Brooks agreed to produce additional documents, but indicated that the production of this "next layer" of documents required extensive research and retrieval efforts on the part of Cleaver-Brooks, and that this process could not be completed by January 19, 2017. Cleaver-Brooks further indicated that their 30(b)(6) designee could not simultaneously research and retrieve this "next layer" of documents and prepare for a deposition to take place just 4 days later. Cleaver-Brooks further advised Plaintiffs' counsel of the expected nature and contents of these additional documents, and offered their 30(b)(6) designee to be deposed on an alternate date.

As stated above, Plaintiffs and Cleaver-Brooks are in the process of reaching an agreement on the production of additional documents and scheduling the 30(b)(6)

Deposition on an alternate date. Those negotiations are ongoing, and Cleaver-Brooks has offered a new date for the deposition that is within the deadline for 30(b)(6) depositions set out in this court's Scheduling Order for this case.

WHEREFORE, Cleaver-Brooks respectfully requests that the Court grant its Motion for Protective Order as to Plaintiffs' Second Amended 30(b)(6) Notice of Deposition of Cleaver-Brooks on the grounds that Cleaver-Brooks does not have a 30(b)(6) designee available for deposition on January 19, 2018, has communicated this to Plaintiffs, and is in the process of reaching an agreement with Plaintiffs on these issues. This Defendant prays for such other and further relief, both general and special, legal or equitable, to which it may be justly entitled.

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By:   
\_\_\_\_\_  
Steven J. Pugh  
Joseph E. Thoensen

ATTORNEYS FOR DEFENDANT  
CLEAVER-BROOKS, INC.

January 18<sup>th</sup>, 2018

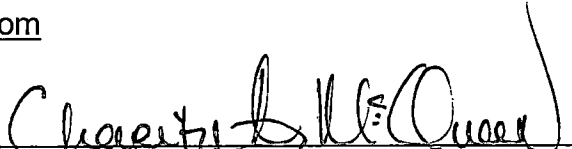
**CERTIFICATE OF SERVICE**

I, Charity A. McQueen, an employee of Richardson Plowden & Robinson, P.A., do hereby certify that a copy of the **DEFENDANT CLEAVER-BROOKS, INC.'S MOTION FOR PROTECTIVE ORDER** in the above-referenced matter has been served upon the following counsel of record, through e-mail and/or the United States Mail, Postage Prepaid, First Class, addressed as follows:

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FILED-RECEIVED  
2018 JAN 22 AM 11:59  
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

  
Charity A. McQueen

January 18, 2018

STATE OF SOUTH CAROLINA

COUNTY OF YORK

**TIMOTHY W. HOWE**, as Personal  
Representative of the Estate of **WAYNE ERVIN  
HOWE**, deceased, and **JEANETTE HOWE**,  
surviving spouse,

Plaintiffs,

v.

**AIR & LIQUID SYSTEMS CORPORATION**,  
et al.,

Defendants.

IN THE COURT OF COMMON PLEAS

SIXTEENTH JUDICIAL CIRCUIT

C/A NO. 15-CP-46-03456

**PLAINTIFFS' MOTION TO COMPEL  
DEFENDANT**

FILED-RECEIVED  
2018 JAN 23 AM 11:38  
DAVID H. HILLIION  
C.C.P. & G.S.  
YORK COUNTY, SC

**YOU WILL PLEASE TAKE NOTICE** that Plaintiffs will move before the court for an order compelling Defendants to (1) produce a 30(b)(6) representative for deposition, (2) to produce fully responsive documents to requests for documents served pursuant to Rule 30(b)(5) of the South Carolina Rules of Civil Procedure attached to the notice of 30(b)(6) deposition. This motion is brought pursuant to Rule 33 and Rule 37 of the South Carolina Rules of Civil Procedure.

**BACKGROUND**

Plaintiffs sued Defendants for damages arising from the death of Wayne Howe due to exposure to asbestos-containing products during his work as a helper, rigger, pipefitter and ultimately master craftsman at multiple industrial facilities between 1962-2008. Plaintiffs have attempted for months to obtain dates for Defendants 30(b)(6) deposition and have offered to accommodate Defendants choice of date, location and time, but still certain Defendants have refused to provide a date for deposition or documents responsive the document requests. Plaintiffs now move to compel dates for 30(b)(6) deposition.

**NOTICE OF 30(b)(6) DEPOSTION AND ATTENDANT DOCUMENT REOUESTS**

Decedent Wayne Howe was deposed for three days in January and February of 2016 by Defense counsel in Rock Hill, South Carolina. Mr. Howe testified at his deposition to his work at American Enka plant from 1962-1965, Crown Cork & Seal on the weekends from 1962-1965, Celanese in Rock Hill, SC from 1962-1977 intermittently, Celanese in Narrows, Va. from 1967-

1977 intermittently, and Bowater paper mill in Catawba, SC from 1978-2008. More specifically, Mr. Howe pinpointed the buildings and locations at each facility where he believes his work exposed him to asbestos and approximately how long he was in each location where he worked. *See generally* Depo. of Wayne Howe, Vol. 2 and Vol. 3, taken February 2-3, 2016. For example, Mr. Howe testified that for the first eight (8) years that he worked at the Bowater paper mill (approx. 1978-1986) he was employed by a contractor working on site, rather than a direct employee of Bowater. During this timeframe, Mr. Howe testified for at least one full year he worked in the Powerhouse at Bowater, and during that one-year period he worked on all the equipment in the Powerhouse. Depo. of Wayne Howe, Vol. 3 at 33-34. Defendants have known for almost two (2) years the details of Mr. Howe's work and the places where he believed his work exposed him to asbestos.<sup>1</sup>

Plaintiffs noticed 30(b)(6) depositions of Defendants, accompanied by a document request pursuant to Rule 30(b)(5) asking in part, for production of records and evidence each Defendant possesses reflecting their products at the above-mentioned worksites of Decedent Wayne Howe. The original notices gave at least 30 days for Defense counsel to reach out to their clients for an available date and location.

The original notices were served **November 13, 2017**, the second notices were served **December 13, 2017**, and the third notices were served **January 4 and 9, 2018**. *See Exhibits 1-3*. Plaintiffs were clear from the beginning that the **time, date and location** could be moved to a time, date and location that worked best for each Defendant but the below Defendants have not produced responsive docs or a deposition despite appropriate requests. *See Exhibits 4*. Despite repeated efforts Plaintiffs still do not have complete responses to these requests. Broadly, these companies fall into the three (3) following categories.

1. Defendants who have provided a deposition date for their company representative but have not provided responsive documents properly sought in the deposition

---

<sup>1</sup> On November 22, 2016 coworker Wayne Grant was deposed giving further detail about the work of Wayne Howe at multiple locations where Wayne Grant worked together with Decedent Wayne Howe. Additionally, December 5, 2017, an additional coworker Gilbert Small was deposed giving even further detail about the work of Mr. Howe, and identifying the manufacturers of the equipment Wayne Howe described working on in the Powerhouse, on the paper machines, at the TMP/pulp mill and in other areas at Bowater.

notice. These defendants include Aurora, Yuba, and SPX. For these defendants, the relief sought is limited to numbers 1, 3 and 4 below.

2. Defendants who have provided responsive documents to the deposition notice but who have not provided a deposition date for their company representative. These defendants include AstenJohnson, Daniel International Corp., and Union Carbide Corporation. For these defendants, the relief sought is limited to numbers 2, 3 and 4 below.
3. Defendants who have not provided a deposition date for their company representative on or before the date requested and have not provided responsive documents properly sought in the deposition notice. These defendants include Cleaver Brooks, Covil Corp., DuZurik, Flowserve Corp. (for Durco), Foster Wheeler, Ingersoll Rand, Marsulex, Sterling, and Gorman-Rupp. For these defendants, Plaintiff's relief sought extends to all four requests below.

Counsel for many of these defendants have indicated that their clients are not responsive and not providing the requested information. Others have committed to producing the witness or documents requested but have done so after the time requested. Plaintiffs have repeatedly extended the time to obtain these documents and/or prepare a witness beyond the time frame required in the rules but made clear that given the pending trial date and summary judgment hearing date no further extensions could be accommodated.

### **CONCLUSION AND PRAYER FOR RELIEF**

Plaintiffs request the Court to issue an order stating the following:

- 1) Plaintiffs have issued a proper notice of deposition for a corporate representative, which incorporated a request for documents. Defendants are compelled to produce requested documents in electronic form within a week of this hearing, on January 31, 2018;
- 2) Plaintiffs have issued a proper notice of deposition for a corporate representative. Defendants are compelled to provide date(s) to complete the deposition by 5:00 p.m. on Friday, January 26th to Plaintiffs' counsel for a deposition date on or before February 16, 2018. The witness should be prepared to discuss the topics notice based on what is known or reasonably available to the Defendant;

- 3) An adequate time for discovery must occur prior to having a motion for summary judgment heard. Due to the failure to produce requested documents or corporate witnesses, it is ordered that Defendants' have forfeited the right to go forward with summary judgment motions on February 26<sup>th</sup>; and
- 4) Plaintiffs are awarded reasonable costs and attorney's fees attendant for having to bring this motion as provided by Rule 37, SCRPC.

Respectfully submitted,

  
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214-722-5991 (Facsimile)

January 22, 2018

Rock Hill, South Carolina.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing motion was served electronically on all counsel of record, this 22nd day of January 2018.

*/s/ Jonathan M. Holder* \_\_\_\_\_

Jonathan M. Holder  
Attorney for Plaintiffs

**EX. 1**

## Jonathan Holder

---

**Subject:** Wayne Ervin Howe – 2015-CP-46-03456 - 30(b)(6) NODs for All Defendants  
**Date:** Monday, November 13, 2017 at 6:05:47 AM Central Standard Time  
**From:** Jonathan Holder  
**To:** Dunn, Lynn, RLHuenefeld@ewhlaw.com, JMTechman@ewhlaw.com, ASRogers@ewhlaw.com, PLSisk@ewhlaw.com, PAMcGrath@ewhlaw.com, eshofner@hptylaw.com, CGriffin@hptylaw.com, JDoxey@hptylaw.com, kurt.rozelsky@smithmoorelaw.com, tim.peck@smithmoorelaw.com, Holly.grant@smithmoorelaw.com, mmcdonald@hsblawfirm.com, sfrick@hsblawfirm.com, dconner@hsblawfirm.com, kdawson@hsblawfirm.com, sturner@hsblawfirm.com, mark.wall@walltempleton.com, Sarah.Schrodetzki@WallTempleton.com, Sheri.ackerman@walltempleton.com, asrogers@ewhlaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, vstorey@richardsonplowden.com, souzts@turnerpadget.com, Robert.meriwether@nelsonmullins.com, mark.phillips@nelsonmullins.com, David.traylor@nelsonmullins.com, Susan.collings@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, tkennaday@turnerpadget.com, lbrown@turnerpadget.com, jmtechman@ewhlaw.com, arogers@ewhlaw.com, plsisk@ewhlaw.com, RLHuenefeld@ewhlaw.com, pamcgrath@ewhlaw.com, byntema@goldbergsegalla.com, kfeserman@goldbergsegalla.com, schisholm@goldbergsegalla.com, christopher.jaros@klgates.com, Kim.Taylor@klgates.com, tbouch@leathbouchlaw.com, ymcleod@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, Bobbyjr.hood@hoodlaw.com, walker.barnes@hoodlaw.com, ben.joyce@hoodlaw.com, julie.dunn@hoodlaw.com, melinda.accardo@hoodlaw.com, Gwyn.Martin@klgates.com, eric@greenvillesclaw.com, ren@cs-law.com, susan.miller@cs-law.com, clif@cs-law.com, Jase.glenn@nelsonmullins.com, Douglas.Pratt-Thomas@rtt-law.com, Dolores.Catapano@rtt-law.com, kurt.rozelsky@smithmoorelaw.com, Stephanie.flynn@smithmoorelaw.com, tim.peck@smithmoorelaw.com, diane.carnes@smithmoorelaw.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, ksullivan@carlockcopeland.com, ctowers@gwblawfirm.com, jdungee@gwblawfirm.com, dwhite@gwblawfirm.com, kwhite@gwblawfirm.com, jnelson@dmclaw.com, jholden@dmclaw.com, mpritt@dmclaw.com, ageddes@nexsenpruet.com, LThomason@nexsenpruet.com, sdavies@mgclaw.com, greg.collins@mgclaw.com, cwell@mgclaw.com, Will Early, Robin Spitz, Rachael Tomlinson, diane.carnes@smithmoorelaw.com, McDonald, Mott, Frick, Scott, Conner, David, Robert.meriwether@nelsonmullins.com, David.traylor@nelsonmullins.com, jase.glenn@nelsonmullins.com, susan.collings@nelsonmullins.com, Kelli.Eargle@nelsonmullins.com, Linda.Wilson@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, ren@cs-law.com, susan.miller@cs-law.com, louispherns@phswlaw.com, willearly@phswlaw.com, robinspitz@phswlaw.com, Brendacasey@phswlaw.com, eric@greenvillesclaw.com, byntema@goldbergsegalla.com, ccollier@hptylaw.com, jdoxey@hptylaw.com, cgriffin@hptylaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, cmcqueen@richardsonplowden.com, dwhite@gwblawfirm.com, ctowers@gwblawfirm.com, Christopher.jaros@klgates.com, gwyn.martin@klgates.com, Kim.taylor@klgates.com, tbouch@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, mark.wall@walltempleton.com, Brown.mcleod@walltempleton.com, Sheri.ackerman@walltempleton.com, Bobbyjr.hood@hoodlaw.com, Melinda.accardo@hoodlaw.com, Walker.barnes@hoodlaw.com, Ben.joyce@hoodlaw.com, joye.ullery@hoodlaw.com, souzts@turnerpadget.com, tkennaday@turnerpadget.com, ngladd@turnerpadget.com, lbrown@turnerpadget.com, jbrown@turnerpadget.com, kristamcguire@parkerpoe.com, ginacornwell@parkerpoe.com, kimnagy@parkerpoe.com,

Evans, Pat, Stephanie.flynn@smithmoorelaw.com, jdungee@gwblawfirm.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, callierobertson@phswlaw.com, dolores.Catapano@rtt-law.com, Douglas.Pratt-Thomas@rtt-law.com, Lindsay.Smith-Yancey@rtt-law.com, VStorey@richardsonplowden.com, jonathan.paul@klgates.com, michael.zukowski@klgates.com, ymcleod@leathbouchlaw.com, Christie.Gilbert@walltempleton.com, julie.dunn@hoodlaw.com, bill.starr@nelsonmullins.com, Dawson, Kathy, Hannah A. Wood, kfesperman@goldbergsegalla.com, schisholm@goldbergsegalla.com, dharris@goldbergsegalla.com

**CC:** Theile McVey, Elizabeth Moultrie, Lisa Dittimore, Trey Branham, Jessica Dean

**Attachments:** Howe - Plaintiffs 30(b)(6) NOD - Viking Pump, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Albany International Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Scapa.pdf, Howe - Plaintiffs 30(b)(6) NOD - Celanese.pdf, Howe - Plaintiffs 30(b)(6) NOD - Black Clawson Converting Machinery, LLC.pdf, Howe - Plaintiffs 30(b)(6) NOD - Davis Standard, LLC.pdf, Howe - Plaintiffs 30(b)(6) NOD - AstenJohnson, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Airgas USA Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Cleaver Brooks, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - CGR Products, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Marsulex Environmental Technologies.pdf, Howe - Plaintiffs 30(b)(6) NOD - Flowserve Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Crown Cork and Seal Company, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Fisher-Klosterman.pdf, Howe - Plaintiffs 30(b)(6) NOD - The Gorman-Rupp Co..pdf, Howe - Plaintiffs 30(b)(6) NOD - Union Carbide Corp. UCC.pdf, Howe - Plaintiffs 30(b)(6) NOD - Sterling Fluid Systems (USA) Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Daniel, Fluor Enterprises, Fluor Daniel Services Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - CBS Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Foster Wheeler Energy Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Ingersoll Rand Co..pdf, Howe - Plaintiffs 30(b)(6) NOD - Trane US Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Linde, LLC, The BOC Group, Inc., Airco, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - General Electric Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - A.W. Chesterton Co..pdf, Howe - Plaintiffs 30(b)(6) NOD - Zurn Industries.pdf, Howe - Plaintiffs 30(b)(6) NOD - Goulds Pumps, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Yuba Heat Transfer Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - DeZurik, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Aurora Pump Co..pdf, Howe - Plaintiffs 30(b)(6) NOD - Air and Liquid Sys. Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Covil Corp..pdf

Dear all-

Please find attached for the purposes of service on your clients, Plaintiffs' 30(b)(6) Notices of Deposition for Defendants in the Howe case. Currently, these depositions are scheduled for December 14, 15, 18, 19, 20, and 21, at the law offices of each Defendant's respective counsel. If the time, day or location does not work for your client, please let us know, and we are happy to amend the notice for a different date, time or location in order to accommodate all reasonable requests. Thank you.

---

Jonathan M. Holder

**Dean | Omar | Branham**  
302 N. Market St., Ste. 300  
Dallas, Texas 75202  
214.722.5990  
469.909.6212 (fax)  
[www.dobLLP.com](http://www.dobLLP.com)

CONFIDENTIALITY NOTICE: This electronic message transmission contains information from Dean Omar

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT AURORA PUMP COMPANY**

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 **AURORA PUMP COMPANY** on **December 14, 2017 at 9:30 a.m. (EST)** 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.**

**LOCATION:** Nelson Mullins Riley & Scarborough LLP  
Meridian Building  
1320 Main St., 17<sup>th</sup> Floor  
Columbia, SC 29201

**Conf. Call-in:** 866-640-4044  
**Passcode:** 241131

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
  - (h) National Insulation Manufacturers Association;
  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT YUBA HEAT TRANSFER CORP.**

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 **YUBA HEAT TRANSFER CORP.**, on **December 14, 2017 at 2:30 p.m. (EST)** 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.**

**LOCATION:** Nelson Mullins Riley & Scarborough LLP  
Meridian Building  
1320 Main St., 17<sup>th</sup> Floor  
Columbia, SC 29201

**Conf. Call-in:** 866-640-4044  
**Passcode:** 241131

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
  - (h) National Insulation Manufacturers Association;
  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT SCAPA WAYCROSS, INC.**

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 **SCAPA WAYCROSS, INC.** on **December 19, 2017 at 8:00 a.m. (EST)** 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.**

**LOCATION:** Pierce, Herns, Sloan & Wilson, LLC  
321 E. Bay St.  
Charleston, SC 29401

**Conf. Call-in:** 866-640-4044  
**Passcode:** 241131

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
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  - (f) Industrial Hygiene Foundation;
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  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
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  - (n) The American Occupational Medicine Association;
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  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT ASTENJOHNSON, INC.**

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 ASTENJOHNSON, INC. on **December 19, 2017 at 4:00 p.m. (EST)** 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.**

**LOCATION: Rogers Townsend & Thomas PC**  
**177 Meeting St., Ste. 320**  
**Charleston, SC 29401**

**Conf. Call-in: 866-640-4044**  
**Passcode: 241131**

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 requested to produce documents responsive to the descriptions listed in

Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
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  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
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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

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- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT DANIEL INTERNATIONAL CORPORATION, DEFENDANT FLUOR ENTERPRISES, INC, AND DEFENDANT FLUOR DANIEL SERVICES CORPORATION**

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 Defendants **DANIEL INTERNATIONAL CORPORATION, FLUOR ENTERPRISES, INC, AND FLUOR DANIEL SERVICES CORPORATION** on **December 18, 2017 at 8:00 a.m. (EST)** 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.**

**LOCATION:** Haynsworth Sinkler Boyd  
1 N. Main St., 2<sup>nd</sup> Floor  
Greenville, SC 29601-2772

**Conf. Call-in:** 866-640-4044  
**Passcode:** 241131

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, which you allowed to be used on the worksite at which you were a contractor at any of the Premises at Issue.
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.
4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.

6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s). This specifically refers to any inspections by USF&G.

13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.

21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.
25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
  - (h) National Insulation Manufacturers Association;
  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

### **EXHIBIT B**

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products provided by or for the use of Daniel Construction employees at any Premises at Issue between 1962 and 2008.
- 4) All contracts for services, all contracts for goods, addendums to contracts, riders, all documents associated with such contracts, etc., to which Daniel International Corp. or any of its predecessors were a party, and which dealt with any Premises at Issue between 1962 and 2008.
- 5) All recommendations or reports provided to you by USF&G regarding any Premises at Issue between 1962 and 2008.
- 6) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008, in your possession, whether conducted for you or at your direction, or not.
- 7) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 8) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 9) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 10) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 11) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated

product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.

- 12) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 13) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 14) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 15) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 16) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 17) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 18) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 19) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 20) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;

- 21) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 22) Any and all documents relating to the current net worth of Defendant;
- 23) Any and all documents relating to the conduct of the Defendant;
- 24) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 25) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;
  - g) The American Industrial Hygiene Association;
  - h) National Insulation Manufacturers Association;
  - i) The Asbestos Textile Institute;
  - j) The Asbestos Information Association of North America;
  - k) The Asbestos Information Association;
  - l) The National Safety Council;
  - m) ACGIH
  - n) The American Occupational Medicine Association;
  - o) The American Public Health Association;
  - p) The American Medical Association;
  - q) The American Chemical Society;
  - r) NIOSH; and
  - s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT UNION CARBIDE CORPORATION**

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 Defendants **UNION CARBIDE CORPORATION** on **December 18, 2017 at 1:00 p.m. (EST)** 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.**

**LOCATION:** Haynsworth Sinkler Boyd  
1 N. Main St., 2<sup>nd</sup> Floor  
Greenville, SC 29601-2772

**Conf. Call-in:** 866-640-4044  
**Passcode:** 241131

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
  - (h) National Insulation Manufacturers Association;
  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT CLEAVER  
BROOKS, INC.**

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 **CLEAVER BROOKS, INC** on **December 20, 2017 at 9:30 a.m. (EST)** 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.**

**LOCATION: Richardson Plowden & Robinson, P.A.  
1900 Barnwell St.  
Columbia, SC 29201**

**Conf. Call-in: 866-640-4044  
Passcode: 241131**

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 requested to produce documents responsive to the descriptions listed in

Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
  - (h) National Insulation Manufacturers Association;
  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT COVIL CORPORATION**

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 Defendants **COVIL CORPORATION** on **December 19, 2017 at 9:00 a.m. (EST)** 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.**

**LOCATION:**            **Gallivan White Boyd  
One Liberty Square  
55 Beattie Place, Ste. 1200  
Greenville, SC 29601**

**Conf. Call-in:**        **866-640-4044**  
**Passcode:**            **241131**

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
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  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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.

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2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
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4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
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- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
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- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
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- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
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Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT DEZURIK, INC.**

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 **DEZURIK, INC.** on **December 14, 2017 at 1:00 p.m. (EST)** 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.**

**LOCATION:** Nelson Mullins Riley & Scarborough LLP  
Meridian Building  
1320 Main St., 17<sup>th</sup> Floor  
Columbia, SC 29201

**Conf. Call-in:** 866-640-4044  
**Passcode:** 241131

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 requested to produce documents responsive to the descriptions listed in

Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
  - (h) National Insulation Manufacturers Association;
  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT SPX COOLING TECHNOLOGIES, F/K/A MARLEY COOLING TOWER CO.**

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 **SPX COOLING TECHNOLOGIES, INC., F/K/A MARLEY COOLING TOWER CO.**, on **January 16, 2018 at 9:00 a.m. (EST)** 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.**

**LOCATION: Dean Omar Branham, LLP  
302 N. Market St., 3rd Floor  
Dallas, TX 75203**

**Conf. Call-in: 866-640-4044  
Passcode: 241131**

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 11<sup>th</sup> day of December, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
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  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
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  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
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- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
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- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
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- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
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- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT FLOWSERVE CORPORATION**

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 Defendants **FLOWSERVE CORPORATION** on **December 20, 2017 at 2:30 p.m. (EST)** 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.**

**LOCATION:**           **Gallivan White Boyd  
One Liberty Square  
55 Beattie Place, Ste. 1200  
Greenville, SC 29601**

**Conf. Call-in:**       **866-640-4044**  
**Passcode:**           **241131**

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
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- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
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- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
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- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT FOSTER  
WHEELER ENERGY CORPORATION**

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 **FOSTER WHEELER ENERGY CORPORATION** on **December 15, 2017 at 11:00 a.m. (EST)** 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.**

**LOCATION:** Evert Weathersby Houff  
3455 Peachtree Road NE  
Suite 1550  
Atlanta, GA 30326

**Conf. Call-in:** 866-640-4044  
**Passcode:** 241131

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
  - (h) National Insulation Manufacturers Association;
  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
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  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
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- n) The American Occupational Medicine Association;
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- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT INGERSOLL  
RAND COMPANY**

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 **INGERSOLL RAND COMPANY** on **December 15, 2017 at 1:00 p.m. (EST)** 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.**

**LOCATION:** Evert Weathersby Houff  
3455 Peachtree Road NE  
Suite 1550  
Atlanta, GA 30326

**Conf. Call-in:** 866-640-4044  
**Passcode:** 241131

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
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  - (j) The Asbestos Information Association of North America;
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  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT MARSULEX ENVIRONMENTAL TECHNOLOGIES CORPORATION and DEFENDANT MARSULEX ENVIRONMENTAL TECHNOLOGIES, LLC**

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 Defendants **MARSULEX ENVIRONMENTAL TECHNOLOGIES CORPORATION and MARSULEX ENVIRONMENTAL TECHNOLOGIES, LLC** on **December 20, 2017 at 1:00 p.m. (EST)** 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.**

**LOCATION:** **Smith Moore Leatherwood, LLP**  
**2 W. Washington St., Ste. 1100**  
**Greenville, SC 29601**

**Conf. Call-in:** **866-640-4044**  
**Passcode:** **241131**

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
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  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
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- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT STERLING FLUID SYSTEMS (USA) LLC f/k/a PEERLESS PUMP COMPANY**

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 Defendants **STERLING FLUID SYSTEMS (USA) INC. f/k/a PEERLESS PUMP COMPANY** on **December 18, 2017 at 11:00 a.m. (EST)** 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.**

**LOCATION: Haynsworth Sinkler Boyd  
1 N. Main St., 2<sup>nd</sup> Floor  
Greenville, SC 29601-2772**

**Conf. Call-in: 866-640-4044  
Passcode: 241131**

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
  - (h) National Insulation Manufacturers Association;
  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
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  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SIXTEENTH JUDICIAL
COUNTY OF YORK	)	CIRCUIT
	)	
<b>TIMOTHY W. HOWE,</b>	)	
as Personal Representative of the	)	
Estate of <b>WAYNE E. HOWE,</b>	)	
deceased, and <b>JEANETTE HOWE,</b>	)	<b>C/A NO. 2015-CP-46-03456</b>
surviving spouse,	)	
	)	In re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
<b>AIR &amp; LIQUID SYSTEMS</b>	)	
<b>CORPORATION, et al.,</b>	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT THE GORMAN-RUPP COMPANY**

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 Defendants **THE GORMAN-RUPP COMPANY** on **December 18, 2017 at 9:30 a.m. (EST)** 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.**

**LOCATION:** Haynsworth Sinkler Boyd  
1 N. Main St., 2<sup>nd</sup> Floor  
Greenville, SC 29601-2772

**Conf. Call-in:** 866-640-4044  
**Passcode:** 241131

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 requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

**DEAN, OMAR, & BRANHAM, LLP**

s/ Jonathan M. Holder  
Jessica M. Dean (TX Bar No. 24025520)  
To be Admitted Pro Hac Vice  
Jonathan M. Holder (SC Bar No. 77935)  
302 N. Market Street, Ste. 300  
Dallas, TX 75202

**KASSEL MCVEY ATTORNEYS AT LAW**  
Theile B. McVey (SC Bar No. 16682)  
1330 Laurel Street  
Columbia, South Carolina 29202  
**Attorneys for Plaintiff**

**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 13<sup>th</sup> day of November, 2017.

s/ Jonathan M. Holder  
Jonathan M. Holder  
Attorney for Plaintiff

## EXHIBIT A

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as “asbestos-containing products”) designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as “the company” “you” or “your”), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).
  
2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.
  
2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the

materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.
5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.
6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.
7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.
8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.
9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the

- dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.
10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.
  11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.
  12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).
  13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.
  14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.
  15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.
  16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.
  17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and

heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.
19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.
20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.
21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.
22. Financial data for your company from its inception to the present time.
23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.
24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.
26. Information and documents requested in Plaintiff's Requests for Production of Documents in this matter.
27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.
28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - (a) The American Society of Mechanical Engineers;
  - (b) The American Society for Testing and Materials;
  - (c) The American Petroleum Institute;
  - (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - (e) Chlorine Institute;
  - (f) Industrial Hygiene Foundation;
  - (g) The American Industrial Hygiene Association;
  - (h) National Insulation Manufacturers Association;
  - (i) The Asbestos Textile Institute;
  - (j) The Asbestos Information Association of North America;
  - (k) The Asbestos Information Association;
  - (l) The National Safety Council;
  - (m) ACGIH
  - (n) The American Occupational Medicine Association;
  - (o) The American Public Health Association;
  - (p) The American Medical Association;
  - (q) The American Chemical Society;
  - (r) NIOSH; and
  - (s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.
29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

## EXHIBIT B

For purposes of this request, 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 the following premises at which Wayne Howe worked during his career:

1. **American Enka Corp.** – Enka, NC (1962-1965, fulltime)
2. **Crown Cork & Seal Company, Inc.** – around Gastonia, NC (1962-1965, weekends)
3. **Celanese** – Rock Hill, SC (1967-1977)
4. **Celanese** – Narrows, VA (intermittently during 1967-1977)
5. **Bowater Southern Paper**, (aka Bowater Paper Mill, aka Bowater Carolina) (1977-2008)

Please produce the following:

- 1) Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.
- 2) All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.
- 3) All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.
- 4) All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

- 5) Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.
- 6) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.
- 7) Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.
- 8) For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.
- 9) For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.
- 10) For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.
- 11) For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.
- 12) Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;
- 13) Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;
- 14) Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or

equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

- 15) Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;
- 16) Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;
- 17) Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;
- 18) Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;
- 19) Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;
- 20) Any and all documents relating to the current net worth of Defendant;
- 21) Any and all documents relating to the conduct of the Defendant;
- 22) Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;
- 23) Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
  - a) The American Society of Mechanical Engineers;
  - b) The American Society for Testing and Materials;
  - c) The American Petroleum Institute;
  - d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
  - e) Chlorine Institute;
  - f) Industrial Hygiene Foundation;

- g) The American Industrial Hygiene Association;
- h) National Insulation Manufacturers Association;
- i) The Asbestos Textile Institute;
- j) The Asbestos Information Association of North America;
- k) The Asbestos Information Association;
- l) The National Safety Council;
- m) ACGIH
- n) The American Occupational Medicine Association;
- o) The American Public Health Association;
- p) The American Medical Association;
- q) The American Chemical Society;
- r) NIOSH; and
- s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

# EX. 2

**Subject:** Re: Wayne Ervin Howe – 2015-CP-46-03456 - Plaintiff's 3rd party Subpoena for Dep of Bowater and NOD of Gilbert Small

**Date:** Wednesday, December 13, 2017 at 1:04:02 PM Central Standard Time

**From:** Jonathan Holder

**To:** E. Douglas Pratt-Thomas, Jennifer M. Techman, Dunn, Lynn, Rachel L. Huenefeld, Andrew S. Rogers, Lynn Sisk, Patricia A. McGrath, eshofner@hptylaw.com, Kennaday, Tom, CGriffin@hptylaw.com, JDoxy@hptylaw.com, kurt.rozelsky@smithmoorelaw.com, tim.peck@smithmoorelaw.com, Holly.grant@smithmoorelaw.com, mmcdonald@hsblawfirm.com, sfrick@hsblawfirm.com, dconner@hsblawfirm.com, kdawson@hsblawfirm.com, sturner@hsblawfirm.com, mark.wall@walltempleton.com, Dawson, Kathy, kim.taylor@klgates.com, Sarah.Schrodetzki@WallTempleton.com, Sheri.ackerman@walltempleton.com, Andrew S. Rogers, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, vstorey@richardsonplowden.com, souzts@turnerpadget.com, Robert.meriwether@nelsonmullins.com, mark.phillips@nelsonmullins.com, David.traylor@nelsonmullins.com, Susan.collings@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, tkennaday@turnerpadget.com, lbrown@turnerpadget.com, Andrew S. Rogers, Lynn Sisk, Rachel L. Huenefeld, Patricia A. McGrath, byntema@goldbergsegalla.com, kfeserman@goldbergsegalla.com, schisholm@goldbergsegalla.com, christopher.jaros@klgates.com, Kim.Taylor@klgates.com, tbouch@leathbouchlaw.com, ymcleod@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, Bobbyjr.hood@hoodlaw.com, walker.barnes@hoodlaw.com, ben.joyce@hoodlaw.com, julie.dunn@hoodlaw.com, melinda.accardo@hoodlaw.com, Gwyn.Martin@klgates.com, eric@greenvillesclaw.com, ren@cs-law.com, susan.miller@cs-law.com, clif@cs-law.com, Jase.glenn@nelsonmullins.com, Dolores Catapano, kurt.rozelsky@smithmoorelaw.com, Stephanie.flynn@smithmoorelaw.com, tim.peck@smithmoorelaw.com, diane.carnes@smithmoorelaw.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, ksullivan@carlockcopeland.com, ctowers@gwblawfirm.com, jdungee@gwblawfirm.com, dwhite@gwblawfirm.com, kwhite@gwblawfirm.com, jnelson@dmclaw.com, jholden@dmclaw.com, mpritt@dmclaw.com, ageddes@nexsenpruet.com, LThomason@nexsenpruet.com, sdavies@mgclaw.com, greg.collins@mgclaw.com, cwells@mgclaw.com, Will Early, Robin Spitz, Rachael Tomlinson, diane.carnes@smithmoorelaw.com, McDonald, Mott, Frick, Scott, Conner, David, Robert.meriwether@nelsonmullins.com, David.traylor@nelsonmullins.com, jase.glenn@nelsonmullins.com, susan.collings@nelsonmullins.com, Kelli.Eargle@nelsonmullins.com, Linda.Wilson@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, ren@cs-law.com, susan.miller@cs-law.com, louispherns@phswlaw.com, willearly@phswlaw.com, robinspitz@phswlaw.com, Brendacasey@phswlaw.com, eric@greenvillesclaw.com, byntema@goldbergsegalla.com, ccollier@hptylaw.com, jdoxy@hptylaw.com, cgriffin@hptylaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, cmcqueen@richardsonplowden.com, dwhite@gwblawfirm.com, ctowers@gwblawfirm.com, Christopher.jaros@klgates.com, gwyn.martin@klgates.com, Kim.taylor@klgates.com, tbouch@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, mark.wall@walltempleton.com, Brown.mcleod@walltempleton.com, Sheri.ackerman@walltempleton.com, Bobbyjr.hood@hoodlaw.com, Melinda.accardo@hoodlaw.com, Walker.barnes@hoodlaw.com, Ben.joyce@hoodlaw.com, joye.ullery@hoodlaw.com, souzts@turnerpadget.com, tkennaday@turnerpadget.com, ngladd@turnerpadget.com, lbrown@turnerpadget.com, jbrown@turnerpadget.com, kristamcguire@parkerpoe.com, ginacornwell@parkerpoe.com, kimnagy@parkerpoe.com,

Evans, Pat, Stephanie.flynn@smithmoorelaw.com, jdungee@gwblawfirm.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, callierobertson@phswlaw.com, Dolores Catapano, Lindsay K. Smith-Yancey, VStorey@richardsonplowden.com, jonathan.paul@klgates.com, michael.zukowski@klgates.com, ymcleod@leathbouchlaw.com, Christie.Gilbert@walltempleton.com, julie.dunn@hoodlaw.com, bill.starr@nelsonmullins.com, Dawson, Kathy, Hannah A. Wood, kfesperman@goldbergsegalla.com, schisholm@goldbergsegalla.com, dharris@goldbergsegalla.com, Misty Vandenberg

**CC:** Theile McVey, Elizabeth Moultrie, Trey Branham, Jessica Dean, Teresa Gilliland

**Attachments:** Howe - Plaintiffs First Amd 30(b)(6) NOD - Air and Liquid Sys. Corp..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - Aurora Pump Co..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - Goulds Pumps, Inc..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - DeZurik, Inc..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - Yuba Heat Transfer Corp..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - Zurn Industries.pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - CBS Corp..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - A.W. Chesterton Co..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - Foster Wheeler Energy Corp..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - Ingersoll Rand Co..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - Trane US Inc..pdf, Howe - Plaintiffs First Amd 30(b)(6) NOD - Linde, LLC, The BOC Group, Inc., Airco, Inc..pdf

Dear all –

We are still working out dates with the Defendants for whom 30(b)(6) depositions are noticed tomorrow and Friday, 12/14 and 12/15. Accordingly, please find attached here Plaintiffs' First Amended 30(b)(6) Notices of Deposition for for (1) Air & Liquid Sys., (2) Aurora Pump, (3) Goulds Pump, (4) DeZurik, (5) Yuba Heat Transfer Corp., and (6) Zurn Industries, as well as (7) CBS, (8) Foster Wheeler, (9) Ingersoll Rand (10) Trane US, (11) A.W. Chesterton, and (12) Linde LLC/BOC/Airco, Inc. As described in the notice, the document requests from the original notice are still in effect, which is why no new document requests are attached to the amended notices. Defendant GE has resolved, therefore the 30(b)(6) notice for GE's deposition to take place 12/15 in Atlanta, GA is withdrawn and cancelled. Thank you.

---

Jonathan M. Holder

**Dean | Omar | Branham**  
302 N. Market St., Ste. 300  
Dallas, Texas 75202  
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469.909.6212 (fax)  
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**Subject:** Howe – 2015-CP-46-03456 - Plaintiff's 1st Amended Notices of 30(b)(6) depositions as to Defs Daniel/Fluor/ Sterling/Gorman/Albany/Viking

**Date:** Friday, December 15, 2017 at 4:17:22 PM Central Standard Time

**From:** Jonathan Holder

**To:** E. Douglas Pratt-Thomas, Jennifer M. Techman, Dunn, Lynn, Rachel L. Huenefeld, Andrew S. Rogers, Lynn Sisk, Patricia A. McGrath, eshofner@hptylaw.com, Kennaday, Tom, CGriffin@hptylaw.com, JDoxey@hptylaw.com, kurt.rozelsky@smithmoorelaw.com, tim.peck@smithmoorelaw.com, Holly.grant@smithmoorelaw.com, mmcdonald@hsblawfirm.com, sfrick@hsblawfirm.com, dconner@hsblawfirm.com, kdawson@hsblawfirm.com, sturner@hsblawfirm.com, mark.wall@walltempleton.com, Dawson, Kathy, kim.taylor@klgates.com, Sarah.Schrodetzki@WallTempleton.com, Sheri.ackerman@walltempleton.com, Andrew S. Rogers, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, Robin S. Spitz, vstorey@richardsonplowden.com, souzts@turnerpadget.com, Robert.meriwether@nelsonmullins.com, mark.phillips@nelsonmullins.com, David.traylor@nelsonmullins.com, Susan.collings@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, tkennaday@turnerpadget.com, lbrown@turnerpadget.com, Andrew S. Rogers, Lynn Sisk, Rachel L. Huenefeld, Patricia A. McGrath, byntema@goldbergsegalla.com, kfeserman@goldbergsegalla.com, schisholm@goldbergsegalla.com, christopher.jaros@klgates.com, Kim.Taylor@klgates.com, tbouch@leathbouchlaw.com, ymcleod@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, Bobbyjr.hood@hoodlaw.com, walker.barnes@hoodlaw.com, ben.joyce@hoodlaw.com, julie.dunn@hoodlaw.com, melinda.accardo@hoodlaw.com, Gwyn.Martin@klgates.com, eric@greenvillesclaw.com, ren@cs-law.com, susan.miller@cs-law.com, clif@cs-law.com, Jase.glenn@nelsonmullins.com, Dolores Catapano, kurt.rozelsky@smithmoorelaw.com, Stephanie.flynn@smithmoorelaw.com, tim.peck@smithmoorelaw.com, diane.carnes@smithmoorelaw.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, ksullivan@carlockcopeland.com, ctowers@gwblawfirm.com, jdungee@gwblawfirm.com, dwhite@gwblawfirm.com, kwhite@gwblawfirm.com, jnelson@dmclaw.com, jholden@dmclaw.com, mpritt@dmclaw.com, ageddes@nexsenpruet.com, LThomason@nexsenpruet.com, sdavies@mgclaw.com, greg.collins@mgclaw.com, cwell@mgclaw.com, Will Early, Robin Spitz, Rachael Tomlinson, diane.carnes@smithmoorelaw.com, McDonald, Mott, Frick, Scott, Conner, David, Robert.meriwether@nelsonmullins.com, David.traylor@nelsonmullins.com, jase.glenn@nelsonmullins.com, susan.collings@nelsonmullins.com, Kelli.Eargle@nelsonmullins.com, Linda.Wilson@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, ren@cs-law.com, susan.miller@cs-law.com, louispherns@phswlaw.com, willearly@phswlaw.com, robinspitz@phswlaw.com, Brendacasey@phswlaw.com, eric@greenvillesclaw.com, byntema@goldbergsegalla.com, ccollier@hptylaw.com, jdoxey@hptylaw.com, cgriffin@hptylaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, cmcqueen@richardsonplowden.com, dwhite@gwblawfirm.com, ctowers@gwblawfirm.com, Christopher.jaros@klgates.com, gwyn.martin@klgates.com, Kim.taylor@klgates.com, tbouch@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, mark.wall@walltempleton.com, Brown.mcleod@walltempleton.com, Sheri.ackerman@walltempleton.com, Bobbyjr.hood@hoodlaw.com, Melinda.accardo@hoodlaw.com, Walker.barnes@hoodlaw.com, Ben.joyce@hoodlaw.com, joye.ullery@hoodlaw.com, souzts@turnerpadget.com, tkennaday@turnerpadget.com, ngladd@turnerpadget.com, lbrown@turnerpadget.com, jbrown@turnerpadget.com, kristamcguire@parkerpoe.com, ginacornwell@parkerpoe.com, kimnagy@parkerpoe.com,

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**CC:** Theile McVey, Elizabeth Moultrie, Trey Branham, Jessica Dean, Teresa Gilliland

**Attachments:** Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Daniel, Fluor Enterprises, Fluor Daniel Services Corp..pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Sterling Fluid Systems (USA) Inc..pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - The Gorman-Rupp Co..pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Albany International Corp..pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Viking Pump, Inc..pdf

Dear all –

Please find attached Plaintiffs First Amended 30(b)(6) Notices of Deposition of Defendants Daniel International Corp./Fluor entities, Def. Sterling Fluid Systems, Def. The Gorman Rupp Co., Def. Albany International and Def. Viking Pump. These amended notices remove the corporate representative depositions from the Howe case scheduled for Monday, 12/18/17. I am still working with the Defendants scheduled for Tuesday and Wednesday of next week on alternative dates, but we know the deposition of Celanese is going forward Wednesday, 12/20 at 12:00pm (EST) at the Marriott in Spartanburg, SC. Thank you.

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Jonathan M. Holder

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**Subject:** Howe – 2015-CP-46-03456 - Plaintiff's 1st Amended Notices of 30(b)(6) depositions as to Defs Scapa / Asten Johnson / Crown Cork & Seal

**Date:** Monday, December 18, 2017 at 8:09:17 AM Central Standard Time

**From:** Jonathan Holder

**To:** E. Douglas Pratt-Thomas, Jennifer M. Techman, Dunn, Lynn, Rachel L. Huenefeld, Andrew S. Rogers, Lynn Sisk, Patricia A. McGrath, eshofner@hptylaw.com, Kennaday, Tom, CGriffin@hptylaw.com, JDoxy@hptylaw.com, kurt.rozelsky@smithmoorelaw.com, tim.peck@smithmoorelaw.com, Holly.grant@smithmoorelaw.com, mmcDonald@hsblawfirm.com, sfrick@hsblawfirm.com, dconner@hsblawfirm.com, kdawson@hsblawfirm.com, sturner@hsblawfirm.com, mark.wall@walltempleton.com, Dawson, Kathy, kim.taylor@klgates.com, Sarah.Schrodetzki@WallTempleton.com, Sheri.ackerman@walltempleton.com, Andrew S. Rogers, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, Robin S. Spitz, vstorey@richardsonplowden.com, souzts@turnerpadget.com, Robert.meriwether@nelsonmullins.com, mark.phillips@nelsonmullins.com, David.traylor@nelsonmullins.com, Susan.collings@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, tkennaday@turnerpadget.com, lbrown@turnerpadget.com, Andrew S. Rogers, Lynn Sisk, Rachel L. Huenefeld, Patricia A. McGrath, byntema@goldbergsegalla.com, kfesperman@goldbergsegalla.com, schisholm@goldbergsegalla.com, christopher.jaros@klgates.com, Kim.Taylor@klgates.com, tbouch@leathbouchlaw.com, ymcleod@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, Bobbyjr.hood@hoodlaw.com, walker.barnes@hoodlaw.com, ben.joyce@hoodlaw.com, julie.dunn@hoodlaw.com, melinda.accardo@hoodlaw.com, Gwyn.Martin@klgates.com, eric@greenvillesclaw.com, ren@cs-law.com, susan.miller@cs-law.com, clif@cs-law.com, Jase.glenn@nelsonmullins.com, Dolores Catapano, kurt.rozelsky@smithmoorelaw.com, Stephanie.flynn@smithmoorelaw.com, tim.peck@smithmoorelaw.com, diane.carnes@smithmoorelaw.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, ksullivan@carlockcopeland.com, ctowers@gwblawfirm.com, jdungee@gwblawfirm.com, dwhite@gwblawfirm.com, kwhite@gwblawfirm.com, jnelson@dmclaw.com, jholden@dmclaw.com, mpritt@dmclaw.com, ageddes@nexsenpruet.com, LThomason@nexsenpruet.com, sdavies@mgclaw.com, greg.collins@mgclaw.com, cwell@mgclaw.com, Will Early, Robin Spitz, Rachael Tomlinson, diane.carnes@smithmoorelaw.com, McDonald, Mott, Frick, Scott, Conner, David, Robert.meriwether@nelsonmullins.com, David.traylor@nelsonmullins.com, jase.glenn@nelsonmullins.com, susan.collings@nelsonmullins.com, Kelli.Eargle@nelsonmullins.com, Linda.Wilson@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, ren@cs-law.com, susan.miller@cs-law.com, louispherns@phswlaw.com, willearly@phswlaw.com, robinspitz@phswlaw.com, Brendacasey@phswlaw.com, eric@greenvillesclaw.com, byntema@goldbergsegalla.com, ccollier@hptylaw.com, jdoxy@hptylaw.com, cgriffin@hptylaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, cmcqueen@richardsonplowden.com, dwhite@gwblawfirm.com, ctowers@gwblawfirm.com, Christopher.jaros@klgates.com, gwyn.martin@klgates.com, Kim.taylor@klgates.com, tbouch@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, mark.wall@walltempleton.com, Brown.mcleod@walltempleton.com, Sheri.ackerman@walltempleton.com, Bobbyjr.hood@hoodlaw.com, Melinda.accardo@hoodlaw.com, Walker.barnes@hoodlaw.com, Ben.joyce@hoodlaw.com, joye.ullery@hoodlaw.com, souzts@turnerpadget.com, tkennaday@turnerpadget.com, ngladd@turnerpadget.com, lbrown@turnerpadget.com, jbrown@turnerpadget.com, kristamcguire@parkerpoe.com, ginacornwell@parkerpoe.com, kimnagy@parkerpoe.com,

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**CC:** Theile McVey, Elizabeth Moultrie, Trey Branham, Jessica Dean, Teresa Gilliland, Lisa Dittimore  
**Attachments:** Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Scapa.pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - AstenJohnson, Inc..pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Crown Cork and Seal Company, Inc..pdf

Dear all –

Please find attached Plaintiffs' 1<sup>st</sup> Amended Notices of 30(b)(6) depositions of Defendant Scapa Waycross, Defendant Asten Johnson, and Defendant Crown Cork & Seal. Furthermore, Plaintiffs 30(b)(6) Notices of Deposition of Defendant Davis Standard and Defendant Black Clawson Converting Machinery, LLC is withdrawn/cancelled and are not re-noticed at this time. Please note on your Howe calendars, a summary of the changes is also listed below. Thank you.

~~Scapa Waycross—12/19/17, 8:00am, cancelled~~

- **Amended to Scapa Waycross – 2/16/18, 9:30am**

~~Black Clawson Converting Machinery, LLC—12/19/17, 1:00pm, cancelled~~

~~Davis Standard—12/19/17, 2:30pm, cancelled~~

~~Asten Johnson—12/19/17, 4:00pm, cancelled~~

- **Amended to Asten Johnson – 1/16/17, 8:30am**

~~Crown Cork & Seal—12/21/17, 9:00am, cancelled~~

- **Amended to Crown Cork & Seal – 1/16/17, 9:30am**

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Jonathan M. Holder

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**Subject:** Wayne Ervin Howe – 2015-CP-46-03456 - Amended 30(b)(6) NODs re Def Airgas, Cleaver Brooks, CGR Products, Marsulex, Flowserve Corp.

**Date:** Tuesday, December 19, 2017 at 3:13:45 PM Central Standard Time

**From:** Jonathan Holder

**To:** E. Douglas Pratt-Thomas, Jennifer M. Techman, Dunn, Lynn, Rachel L. Huenefeld, Andrew S. Rogers, Lynn Sisk, Patricia A. McGrath, eshofner@hptylaw.com, Robin S. Spitz, CGriffin@hptylaw.com, JDoxy@hptylaw.com, kurt.rozelsky@smithmoorelaw.com, tim.peck@smithmoorelaw.com, Holly.grant@smithmoorelaw.com, mmcdonald@hsblawfirm.com, sfrick@hsblawfirm.com, dconner@hsblawfirm.com, kdawson@hsblawfirm.com, sturner@hsblawfirm.com, mark.wall@walltempleton.com, Dawson, Kathy, kim.taylor@klgates.com, Sarah.Schrodetzki@WallTempleton.com, Sheri.ackerman@walltempleton.com, Andrew S. Rogers, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, vstorey@richardsonplowden.com, souzts@turnerpadget.com, Robert.meriwether@nelsonmullins.com, mark.phillips@nelsonmullins.com, David.traylor@nelsonmullins.com, Susan.collings@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, tkennaday@turnerpadget.com, lbrown@turnerpadget.com, Andrew S. Rogers, Lynn Sisk, Rachel L. Huenefeld, Patricia A. McGrath, byntema@goldbergsegalla.com, kfeserman@goldbergsegalla.com, schisholm@goldbergsegalla.com, christopher.jaros@klgates.com, Kim.Taylor@klgates.com, tbouch@leathbouchlaw.com, ymcleod@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, Bobbyjr.hood@hoodlaw.com, walker.barnes@hoodlaw.com, ben.joyce@hoodlaw.com, julie.dunn@hoodlaw.com, melinda.accardo@hoodlaw.com, Gwyn.Martin@klgates.com, eric@greenvillesclaw.com, ren@cs-law.com, susan.miller@cs-law.com, clif@cs-law.com, Jase.glenn@nelsonmullins.com, Dolores Catapano, kurt.rozelsky@smithmoorelaw.com, Stephanie.flynn@smithmoorelaw.com, tim.peck@smithmoorelaw.com, diane.carnes@smithmoorelaw.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, ksullivan@carlockcopeland.com, ctowers@gwblawfirm.com, jdungee@gwblawfirm.com, dwhite@gwblawfirm.com, kwhite@gwblawfirm.com, jnelson@dmclaw.com, jholden@dmclaw.com, mpritt@dmclaw.com, ageddes@nexsenpruet.com, LThomason@nexsenpruet.com, sdavies@mgclaw.com, greg.collins@mgclaw.com, cwell@mgclaw.com, Will Early, Robin Spitz, Rachael Tomlinson, diane.carnes@smithmoorelaw.com, McDonald, Mott, Frick, Scott, Conner, David, Robert.meriwether@nelsonmullins.com, David.traylor@nelsonmullins.com, jase.glenn@nelsonmullins.com, susan.collings@nelsonmullins.com, Kelli.Eargle@nelsonmullins.com, Linda.Wilson@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, ren@cs-law.com, susan.miller@cs-law.com, louispherns@phswlaw.com, willearly@phswlaw.com, robinspitz@phswlaw.com, Brendacasey@phswlaw.com, eric@greenvillesclaw.com, byntema@goldbergsegalla.com, ccollier@hptylaw.com, jdoxy@hptylaw.com, cgriffin@hptylaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, cmcqueen@richardsonplowden.com, dwhite@gwblawfirm.com, ctowers@gwblawfirm.com, Christopher.jaros@klgates.com, gwyn.martin@klgates.com, Kim.taylor@klgates.com, tbouch@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, mark.wall@walltempleton.com, Brown.mcleod@walltempleton.com, Sheri.ackerman@walltempleton.com, Bobbyjr.hood@hoodlaw.com, Melinda.accardo@hoodlaw.com, Walker.barnes@hoodlaw.com, Ben.joyce@hoodlaw.com, joye.ullery@hoodlaw.com, souzts@turnerpadget.com, tkennaday@turnerpadget.com, ngladd@turnerpadget.com, lbrown@turnerpadget.com, jbrown@turnerpadget.com, kristamcguire@parkerpoe.com, ginacornwell@parkerpoe.com, kimnagy@parkerpoe.com,

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**CC:** Theile McVey, Elizabeth Moultrie, Lisa Dittimore, Trey Branham, Jessica Dean, Teresa Gilliland

**Attachments:** Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Airgas USA Inc..pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Cleaver Brooks, Inc..pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Marsulex Environmental Technologies.pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - CGR Products, Inc..pdf, Howe - Plaintiffs 1st Amended 30(b)(6) NOD - Flowserve Corp..pdf

Dear all –

Attached please find Plaintiffs First Amended 30(b)(6) Notices of Depositions for Defendants Airgas, Cleaver Brooks, CGR Products, Marsulex, Flowserve Corp., originally noticed for tomorrow. Please note the changes to your calendars in Howe. Thank you very much.

---

Jonathan M. Holder

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# EX. 3

**Subject:** Howe – 2015-CP-46-03456 - 2nd Amended 30(b)(6) Notice of dep for certain defendants  
**Date:** Thursday, January 4, 2018 at 1:14:19 AM Central Standard Time  
**From:** Jonathan Holder  
**To:** E. Douglas Pratt-Thomas, Jennifer M. Techman, Dunn, Lynn, Rachel L. Huenefeld, Andrew S. Rogers, Lynn Sisk, Patricia A. McGrath, eshofner@hptylaw.com, Kennaday, Tom, CGriffin@hptylaw.com, JDoxey@hptylaw.com, kurt.rozelsky@smithmoorelaw.com, tim.peck@smithmoorelaw.com, Kurt Reeg, Holly.grant@smithmoorelaw.com, mmcdonald@hsblawfirm.com, sfrick@hsblawfirm.com, dconner@hsblawfirm.com, kdawson@hsblawfirm.com, sturner@hsblawfirm.com, mark.wall@walltempleton.com, Dawson, Kathy, kim.taylor@klgates.com, Sarah.Schrodetzki@WallTempleton.com, Sheri.ackerman@walltempleton.com, Andrew S. Rogers, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, Robin S. Spitz, vstorey@richardsonplowden.com, souzts@turnerpadget.com, Robert.meriwether@nelsonmullins.com, mark.phillips@nelsonmullins.com, David.traylor@nelsonmullins.com, Susan.collings@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, tkennaday@turnerpadget.com, lbrown@turnerpadget.com, Andrew S. Rogers, Lynn Sisk, Rachel L. Huenefeld, Patricia A. McGrath, byntema@goldbergsegalla.com, kfeserman@goldbergsegalla.com, schisholm@goldbergsegalla.com, christopher.jaros@klgates.com, Kim.Taylor@klgates.com, tbouch@leathbouchlaw.com, ymcleod@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, Bobbyjr.hood@hoodlaw.com, walker.barnes@hoodlaw.com, ben.joyce@hoodlaw.com, julie.dunn@hoodlaw.com, melinda.accardo@hoodlaw.com, Gwyn.Martin@klgates.com, eric@greenvillesclaw.com, ren@cs-law.com, susan.miller@cs-law.com, clif@cs-law.com, Jase.glenn@nelsonmullins.com, Dolores Catapano, kurt.rozelsky@smithmoorelaw.com, Stephanie.flynn@smithmoorelaw.com, tim.peck@smithmoorelaw.com, diane.carnes@smithmoorelaw.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, ksullivan@carlockcopeland.com, ctowers@gwblawfirm.com, jdungee@gwblawfirm.com, dwhite@gwblawfirm.com, kwhite@gwblawfirm.com, jnelson@dmclaw.com, jholden@dmclaw.com, mpritt@dmclaw.com, ageddes@nexsenpruet.com, LThomason@nexsenpruet.com, sdavies@mgclaw.com, greg.collins@mgclaw.com, cwell@mgclaw.com, Will Early, Robin Spitz, Rachael Tomlinson, diane.carnes@smithmoorelaw.com, McDonald, Mott, Frick, Scott, Conner, David, Robert.meriwether@nelsonmullins.com, David.traylor@nelsonmullins.com, jase.glenn@nelsonmullins.com, susan.collings@nelsonmullins.com, Kelli.Eargle@nelsonmullins.com, Linda.Wilson@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, ren@cs-law.com, susan.miller@cs-law.com, louispherns@phswlaw.com, willearly@phswlaw.com, robinspitz@phswlaw.com, Brendacasey@phswlaw.com, eric@greenvillesclaw.com, byntema@goldbergsegalla.com, ccollier@hptylaw.com, jdoxey@hptylaw.com, cgriffin@hptylaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, cmcqueen@richardsonplowden.com, dwhite@gwblawfirm.com, ctowers@gwblawfirm.com, Christopher.jaros@klgates.com, gwyn.martin@klgates.com, Kim.taylor@klgates.com, tbouch@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, mark.wall@walltempleton.com, Brown.mcleod@walltempleton.com, Sheri.ackerman@walltempleton.com, Bobbyjr.hood@hoodlaw.com, Melinda.accardo@hoodlaw.com, Walker.barnes@hoodlaw.com, Ben.joyce@hoodlaw.com, joye.ullery@hoodlaw.com, souzts@turnerpadget.com, tkennaday@turnerpadget.com, ngladd@turnerpadget.com, lbrown@turnerpadget.com, jbrown@turnerpadget.com, kristamcguire@parkerpoe.com, ginacornwell@parkerpoe.com, kimnagy@parkerpoe.com, Evans, Pat, Stephanie.flynn@smithmoorelaw.com, jdungee@gwblawfirm.com,

rtate@gwblawfirm.com, drheney@gwblawfirm.com, callierobertson@phswlaw.com, Dolores Catapano, Lindsay K. Smith-Yancey, VStorey@richardsonplowden.com, jonathan.paul@klgates.com, michael.zukowski@klgates.com, ymcleod@leathbouchlaw.com, Christie.Gilbert@walltempleton.com, julie.dunn@hoodlaw.com, bill.starr@nelsonmullins.com, Dawson, Kathy, Hannah A. Wood, kfeserman@goldbergsegalla.com, schisholm@goldbergsegalla.com, dharris@goldbergsegalla.com, Misty Vandenberg

**CC:** Theile McVey, Elizabeth Moultrie, Trey Branham, Jessica Dean, Teresa Gilliland, Lisa Dittimore

**Attachments:** Howe - Plaintiffs 2nd Amd 30(b)(6) NOD - Air and Liquid Sys. Corp..pdf, Howe - Plaintiffs 2nd Amd 30(b)(6) NOD - Aurora Pump Co..pdf, Howe - Plaintiffs 2nd Amd 30(b)(6) NOD - Goulds Pumps, Inc..pdf, Howe - Plaintiffs 2nd Amd 30(b)(6) NOD - DeZurik, Inc..pdf, Howe - Plaintiffs 2nd Amd 30(b)(6) NOD - Yuba Heat Transfer Corp..pdf, Howe - Plaintiffs 2nd Amd 30(b)(6) NOD - Zurn Industries.pdf

Dear all-

Please forgive the late hour of this email but I wanted the attached amended notices to hit your inboxes first thing in the morning. Please find attached Plaintiffs' Second Amended 30(b)(6) Notices of Deposition in the Howe matter for Defendants (1) Air & Liquid Sys., (2) Aurora Pump, (3) Goulds Pumps, (4) DeZurik, Inc., (5) Yuba Heat Transfer Corp., and (6) Zurn Industries for January 22, 2018. Please let me know if you have any problem opening the attachments. Thank you. JH

---

Jonathan M. Holder

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**Subject:** Howe - Depositions January 10, 2018  
**Date:** Tuesday, January 9, 2018 at 10:47:10 PM Central Standard Time  
**From:** Jonathan Holder  
**To:** Pritt, Marsha, E. Douglas Pratt-Thomas, Jennifer M. Techman, Dunn, Lynn, Rachel L. Huenefeld, Andrew S. Rogers, Lynn Sisk, Patricia A. McGrath, eshofner@hptylaw.com, Kennaday, Tom, CGriffin@hptylaw.com, JDoxy@hptylaw.com, kurt.rozelsky@smithmoorelaw.com, tim.peck@smithmoorelaw.com, Kurt Reeg, Holly.grant@smithmoorelaw.com, mmcdonald@hsblawfirm.com, sfrick@hsblawfirm.com, dconner@hsblawfirm.com, kdawson@hsblawfirm.com, sturner@hsblawfirm.com, mark.wall@walltempleton.com, Dawson, Kathy, kim.taylor@klgates.com, Sarah.Schrodetzki@WallTempleton.com, Sheri.ackerman@walltempleton.com, Andrew S. Rogers, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, Robin S. Spitz, vstorey@richardsonplowden.com, souzts@turnerpadget.com, Robert.meriwether@nelsonmullins.com, mark.phillips@nelsonmullins.com, David.traylor@nelsonmullins.com, Susan.collings@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, tkennaday@turnerpadget.com, lbrown@turnerpadget.com, Andrew S. Rogers, Lynn Sisk, Rachel L. Huenefeld, Patricia A. McGrath, byntema@goldbergsegalla.com, kfesperman@goldbergsegalla.com, schisholm@goldbergsegalla.com, christopher.jaros@klgates.com, Kim.Taylor@klgates.com, tbouch@leathbouchlaw.com, ymcleod@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, Bobbyjr.hood@hoodlaw.com, walker.barnes@hoodlaw.com, ben.joyce@hoodlaw.com, julie.dunn@hoodlaw.com, melinda.accardo@hoodlaw.com, Gwyn.Martin@klgates.com, eric@greenvillesclaw.com, ren@cs-law.com, susan.miller@cs-law.com, clif@cs-law.com, Jase.glenn@nelsonmullins.com, Dolores Catapano, kurt.rozelsky@smithmoorelaw.com, Stephanie.flynn@smithmoorelaw.com, tim.peck@smithmoorelaw.com, diane.carnes@smithmoorelaw.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, ksullivan@carlockcopeland.com, ctowers@gwblawfirm.com, jdungee@gwblawfirm.com, dwhite@gwblawfirm.com, kwhite@gwblawfirm.com, Nelson, Joe, Holden, John, ageddes@nexsenpruet.com, LThomason@nexsenpruet.com, sdavies@mgclaw.com, greg.collins@mgclaw.com, cwell@mgclaw.com, Will Early, Robin Spitz, Rachael Tomlinson, diane.carnes@smithmoorelaw.com, McDonald, Mott, Frick, Scott, Conner, David, Robert.meriwether@nelsonmullins.com, David.traylor@nelsonmullins.com, jase.glenn@nelsonmullins.com, susan.collings@nelsonmullins.com, Kelli.Eargle@nelsonmullins.com, Linda.Wilson@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, ren@cs-law.com, susan.miller@cs-law.com, louispherns@phswlaw.com, willearly@phswlaw.com, robinspitz@phswlaw.com, Brendacasey@phswlaw.com, eric@greenvillesclaw.com, byntema@goldbergsegalla.com, ccollier@hptylaw.com, jdoxy@hptylaw.com, cgriffin@hptylaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, cmcqueen@richardsonplowden.com, dwhite@gwblawfirm.com, ctowers@gwblawfirm.com, Christopher.jaros@klgates.com, gwyn.martin@klgates.com, Kim.taylor@klgates.com, tbouch@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, mark.wall@walltempleton.com, Brown.mcleod@walltempleton.com, Sheri.ackerman@walltempleton.com, Bobbyjr.hood@hoodlaw.com, Melinda.accardo@hoodlaw.com, Walker.barnes@hoodlaw.com, Ben.joyce@hoodlaw.com, joye.ullery@hoodlaw.com, souzts@turnerpadget.com, tkennaday@turnerpadget.com, ngladd@turnerpadget.com, lbrown@turnerpadget.com, jbrown@turnerpadget.com, kristamcguire@parkerpoe.com, ginacornwell@parkerpoe.com, kimnagy@parkerpoe.com, Evans, Pat, Stephanie.flynn@smithmoorelaw.com, jdungee@gwblawfirm.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, callierobertson@phswlaw.com, Dolores

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**CC:** Theile McVey, Elizabeth Moultrie, Trey Branham, Jessica Dean, Teresa Gilliland, Lisa Dittimore

**Attachments:** Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - Cleaver Brooks, Inc..pdf, Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - Airgas USA Inc..pdf, Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - Marsulex Environmental Technologies.pdf, Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - Flowserve Corp..pdf

Dear all –

Please find attached 2<sup>nd</sup> Amended 30(b)(6) Notices of Deposition for Defendants Cleaver Brooks, Airgas, Flowserve Corp., and Marsulex. As previously mentioned, the only 30(b)(6) deposition going forward tomorrow, 1/10/18, in the Howe matter is the deposition of Defendant CGR at 10:00 a.m. (EST). I'm again pasting the call-in information below. Thank you.

**LOCATION: Goldberg Segalla**  
**800 Green Valley Road**  
**Greensboro, NC 27408**

**Conf. Call-in: 866-640-4044**

**Atty. Code: 567-8658**

---

Jonathan M. Holder

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**Subject:** Howe v. - 2015-CP-46-3456 - 2nd Amended 30(b)(6) Notice of Deposition - Daniel/Fluor, Sterling Flu id Sys., Gormann Rupp, Albany International

**Date:** Friday, January 12, 2018 at 7:00:22 AM Central Standard Time

**From:** Jonathan Holder

**To:** Pritt, Marsha, E. Douglas Pratt-Thomas, Jennifer M. Techman, Dunn, Lynn, Rachel L. Huenefeld, Andrew S. Rogers, Lynn Sisk, Patricia A. McGrath, eshofner@hptylaw.com, Kennaday, Tom, CGriffin@hptylaw.com, JDoxy@hptylaw.com, kurt.rozelsky@smithmoorelaw.com, tim.peck@smithmoorelaw.com, Kurt Reeg, Holly.grant@smithmoorelaw.com, mmcDonald@hsblawfirm.com, sfrick@hsblawfirm.com, dconner@hsblawfirm.com, kdawson@hsblawfirm.com, sturner@hsblawfirm.com, mark.wall@walltempleton.com, Dawson, Kathy, kim.taylor@klgates.com, Sarah.Schrodetzki@WallTempleton.com, Sheri.ackerman@walltempleton.com, Andrew S. Rogers, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, Robin S. Spitz, vstorey@richardsonplowden.com, souzts@turnerpadget.com, Robert.meriwether@nelsonmullins.com, mark.phillips@nelsonmullins.com, David.traylor@nelsonmullins.com, Susan.collings@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, tkennaday@turnerpadget.com, lbrown@turnerpadget.com, Andrew S. Rogers, Lynn Sisk, Rachel L. Huenefeld, Patricia A. McGrath, byntema@goldbergsegalla.com, kfesperman@goldbergsegalla.com, schisholm@goldbergsegalla.com, christopher.jaros@klgates.com, Kim.Taylor@klgates.com, tbouch@leathbouchlaw.com, ymcleod@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, Bobbyjr.hood@hoodlaw.com, walker.barnes@hoodlaw.com, ben.joyce@hoodlaw.com, julie.dunn@hoodlaw.com, melinda.accardo@hoodlaw.com, Gwyn.Martin@klgates.com, eric@greenvillesclaw.com, ren@cs-law.com, susan.miller@cs-law.com, clif@cs-law.com, Jase.glenn@nelsonmullins.com, Dolores Catapano, kurt.rozelsky@smithmoorelaw.com, Stephanie.flynn@smithmoorelaw.com, tim.peck@smithmoorelaw.com, diane.carnes@smithmoorelaw.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, ksullivan@carlockcopeland.com, ctowers@gwblawfirm.com, jdungee@gwblawfirm.com, dwhite@gwblawfirm.com, kwhite@gwblawfirm.com, Nelson, Joe, Holden, John, ageddes@nexsenpruet.com, LThomason@nexsenpruet.com, sdavies@mgclaw.com, greg.collins@mgclaw.com, cwells@mgclaw.com, Will Early, Robin Spitz, Rachael Tomlinson, diane.carnes@smithmoorelaw.com, McDonald, Mott, Frick, Scott, Conner, David, Robert.meriwether@nelsonmullins.com, David.traylor@nelsonmullins.com, jase.glenn@nelsonmullins.com, susan.collings@nelsonmullins.com, Kelli.Eargle@nelsonmullins.com, Linda.Wilson@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, ren@cs-law.com, susan.miller@cs-law.com, louispherns@phswlaw.com, willearly@phswlaw.com, robinspitz@phswlaw.com, Brendacasey@phswlaw.com, eric@greenvillesclaw.com, byntema@goldbergsegalla.com, ccollier@hptylaw.com, jdoxy@hptylaw.com, cgriffin@hptylaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, cmcqueen@richardsonplowden.com, dwhite@gwblawfirm.com, ctowers@gwblawfirm.com, Christopher.jaros@klgates.com, gwyn.martin@klgates.com, Kim.taylor@klgates.com, tbouch@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, mark.wall@walltempleton.com, Brown.mcleod@walltempleton.com, Sheri.ackerman@walltempleton.com, Bobbyjr.hood@hoodlaw.com, Melinda.accardo@hoodlaw.com, Walker.barnes@hoodlaw.com, Ben.joyce@hoodlaw.com, joye.ullery@hoodlaw.com, souzts@turnerpadget.com, tkennaday@turnerpadget.com, ngladd@turnerpadget.com, lbrown@turnerpadget.com, jbrown@turnerpadget.com, kristamcguire@parkerpoe.com, ginacornwell@parkerpoe.com, kimnagy@parkerpoe.com, Evans, Pat, Stephanie.flynn@smithmoorelaw.com, jdungee@gwblawfirm.com,

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**CC:** Theile McVey, Elizabeth Moultrie, Trey Branham, Jessica Dean, Teresa Gilliland, Lisa Dittimore

**Attachments:** Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - Daniel, Fluor Enterprises, Fluor Daniel Services Corp..pdf, Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - Sterling Fluid Systems (USA) Inc..pdf, Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - The Gorman-Rupp Co..pdf, Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - Albany International Corp..pdf

DaDear all –

Please find attached Plaintiffs' 2<sup>nd</sup> Amended 30(b)(6) Notices of Deposition of Defendants Daniel/Fluor, Sterling Fluid Sys., Gorman Rupp, and Albany International, now set for 01/29/18. If you have any trouble with the attachments, please let me know. Thank you.

---

Jonathan M. Holder

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**Subject:** Howe – 2015-CP-46-03456 - Plaintiffs 2nd amended 30(b)(6) notices for AstenJohnson, Union Carbide, and Resolute FP US, Inc. (Bowater)

**Date:** Sunday, January 14, 2018 at 4:27:06 PM Central Standard Time

**From:** Jonathan Holder

**To:** E. Douglas Pratt-Thomas, Jennifer M. Techman, Dunn, Lynn, Rachel L. Huenefeld, Andrew S. Rogers, Lynn Sisk, Patricia A. McGrath, eshofner@hptylaw.com, Kennaday, Tom, CGriffin@hptylaw.com, JDoxy@hptylaw.com, kurt.rozelsky@smithmoorelaw.com, tim.peck@smithmoorelaw.com, Kurt Reeg, Holly.grant@smithmoorelaw.com, mmcdonald@hsblawfirm.com, sfrick@hsblawfirm.com, dconner@hsblawfirm.com, kdawson@hsblawfirm.com, sturner@hsblawfirm.com, mark.wall@walltempleton.com, Dawson, Kathy, kim.taylor@klgates.com, Sarah.Schrodetzki@WallTempleton.com, Sheri.ackerman@walltempleton.com, Yntema, Brady A., SGladden@RichardsonPlowden.com, Andrew S. Rogers, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, Robin S. Spitz, vstorey@richardsonplowden.com, souzts@turnerpadget.com, Robert.meriwether@nelsonmullins.com, mark.phillips@nelsonmullins.com, David.traylor@nelsonmullins.com, Susan.collings@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, tkennaday@turnerpadget.com, lbrown@turnerpadget.com, Andrew S. Rogers, Lynn Sisk, Rachel L. Huenefeld, Patricia A. McGrath, byntema@goldbergsegalla.com, kfesperman@goldbergsegalla.com, schisholm@goldbergsegalla.com, christopher.jaros@klgates.com, Kim.Taylor@klgates.com, tbouch@leathbouchlaw.com, ymcleod@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, Bobbyjr.hood@hoodlaw.com, walker.barnes@hoodlaw.com, ben.joyce@hoodlaw.com, julie.dunn@hoodlaw.com, melinda.accardo@hoodlaw.com, Gwyn.Martin@klgates.com, eric@greenvillesclaw.com, ren@cs-law.com, susan.miller@cs-law.com, clif@cs-law.com, Jase.glenn@nelsonmullins.com, Dolores Catapano, kurt.rozelsky@smithmoorelaw.com, Stephanie.flynn@smithmoorelaw.com, tim.peck@smithmoorelaw.com, diane.carnes@smithmoorelaw.com, rtate@gwblawfirm.com, drheney@gwblawfirm.com, ksullivan@carlockcopeland.com, ctowers@gwblawfirm.com, jdungee@gwblawfirm.com, dwhite@gwblawfirm.com, kwhite@gwblawfirm.com, jnelson@dmclaw.com, jholden@dmclaw.com, mpritt@dmclaw.com, ageddes@nexsenpruet.com, LThomason@nexsenpruet.com, sdavies@mgclaw.com, greg.collins@mgclaw.com, cwells@mgclaw.com, Will Early, Robin Spitz, Rachael Tomlinson, diane.carnes@smithmoorelaw.com, McDonald, Mott, Frick, Scott, Conner, David, Robert.meriwether@nelsonmullins.com, David.traylor@nelsonmullins.com, jase.glenn@nelsonmullins.com, susan.collings@nelsonmullins.com, Kelli.Eargle@nelsonmullins.com, Linda.Wilson@nelsonmullins.com, Carolyn.blackwell@nelsonmullins.com, ren@cs-law.com, susan.miller@cs-law.com, louispherns@phswlaw.com, willearly@phswlaw.com, robinspitz@phswlaw.com, Brendacasey@phswlaw.com, eric@greenvillesclaw.com, byntema@goldbergsegalla.com, ccollier@hptylaw.com, jdoxy@hptylaw.com, cgriffin@hptylaw.com, spugh@richardsonplowden.com, jthoensen@richardsonplowden.com, cmcqueen@richardsonplowden.com, dwhite@gwblawfirm.com, ctowers@gwblawfirm.com, Christopher.jaros@klgates.com, gwyn.martin@klgates.com, Kim.taylor@klgates.com, tbouch@leathbouchlaw.com, amelvin@leathbouchlaw.com, cscott@leathbouchlaw.com, mark.wall@walltempleton.com, Brown.mcleod@walltempleton.com, Sheri.ackerman@walltempleton.com, Bobbyjr.hood@hoodlaw.com, Melinda.accardo@hoodlaw.com, Walker.barnes@hoodlaw.com, Ben.joyce@hoodlaw.com, joye.ullery@hoodlaw.com, souzts@turnerpadget.com, tkennaday@turnerpadget.com, ngladd@turnerpadget.com, lbrown@turnerpadget.com, jbrown@turnerpadget.com, kristamcguire@parkerpoe.com, ginacornwell@parkerpoe.com, kimnagy@parkerpoe.com,

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**CC:** Theile McVey, Elizabeth Moultrie, Trey Branham, Jessica Dean, Teresa Gilliland, Lisa Dittimore

**Attachments:** Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - AstenJohnson, Inc..pdf, Howe - Plaintiffs 2nd Amended 30(b)(6) NOD - Union Carbide Corp. UCC.pdf, Howe - 2nd Amended Third Party 30(b)(6) NOD of Bowater Paper Mill - Resolute.pdf

Dear all –

Please find attached Plaintiffs' Second Amended 30(b)(6) Notices of deposition for Defendant Asten Johnson, Defendant Union Carbide Corp., and 3<sup>rd</sup> Party Resolute FP US, Inc. This should take care of any unresolved depositions noticed for this week (1/15-1/19) in the Howe matter. All other Howe depositions noticed for this week will proceed as noticed. Thank you.

---

Jonathan M. Holder

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# EX. 4

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**CC:** Theile McVey, Elizabeth Moultrie, Lisa Dittimore, Trey Branham, Jessica Dean

**Attachments:** Howe - Plaintiffs 30(b)(6) NOD - Viking Pump, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Albany International Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Scapa.pdf, Howe - Plaintiffs 30(b)(6) NOD - Celanese.pdf, Howe - Plaintiffs 30(b)(6) NOD - Black Clawson Converting Machinery, LLC.pdf, Howe - Plaintiffs 30(b)(6) NOD - Davis Standard, LLC.pdf, Howe - Plaintiffs 30(b)(6) NOD - AstenJohnson, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Airgas USA Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Cleaver Brooks, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - CGR Products, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Marsulex Environmental Technologies.pdf, Howe - Plaintiffs 30(b)(6) NOD - Flowserve Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Crown Cork and Seal Company, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Fisher-Klosterman.pdf, Howe - Plaintiffs 30(b)(6) NOD - The Gorman-Rupp Co..pdf, Howe - Plaintiffs 30(b)(6) NOD - Union Carbide Corp. UCC.pdf, Howe - Plaintiffs 30(b)(6) NOD - Sterling Fluid Systems (USA) Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Daniel, Fluor Enterprises, Fluor Daniel Services Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - CBS Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Foster Wheeler Energy Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Ingersoll Rand Co..pdf, Howe - Plaintiffs 30(b)(6) NOD - Trane US Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Linde, LLC, The BOC Group, Inc., Airco, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - General Electric Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - A.W. Chesterton Co..pdf, Howe - Plaintiffs 30(b)(6) NOD - Zurn Industries.pdf, Howe - Plaintiffs 30(b)(6) NOD - Goulds Pumps, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Yuba Heat Transfer Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - DeZurik, Inc..pdf, Howe - Plaintiffs 30(b)(6) NOD - Aurora Pump Co..pdf, Howe - Plaintiffs 30(b)(6) NOD - Air and Liquid Sys. Corp..pdf, Howe - Plaintiffs 30(b)(6) NOD - Covil Corp..pdf

Dear all-

Please find attached for the purposes of service on your clients, Plaintiffs' 30(b)(6) Notices of Deposition for Defendants in the Howe case. Currently, these depositions are scheduled for December 14, 15, 18, 19, 20, and 21, at the law offices of each Defendant's respective counsel. If the time, day or location does not work for your client, please let us know, and we are happy to amend the notice for a different date, time or location in order to accommodate all reasonable requests. Thank you.

---

Jonathan M. Holder

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CONFIDENTIALITY NOTICE: This electronic message transmission contains information from Dean Omar

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK. )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Timothy W. Howe, Individually and as )  
Personal Representative of the Estate of )  
Wayne Ervin Howe, deceased, and Jeanette )  
Howe, )

Civil Action No. 2015-CP-46-03456

Plaintiff,

**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET**

v.

Air & Liquid Systems Corp., et al.,

Defendant.

FILED-RECEIVED  
2018 FEB -9 AM 11:28  
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

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- MOTION HEARING REQUESTED (attached written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER / CONSENT ORDER (complete SECTIONS II and III)

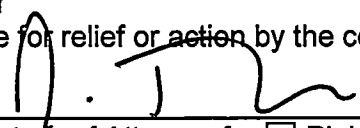
**SECTION I: Hearing Information**

Nature of Motion: Defendant Cleaver-Brooks, Inc.'s Motion for Summary Judgment  
Estimated Time Needed: 30 minutes Court Reporter Needed:  YES /  NO

**SECTION II: Motion/Order Type**

- Written motion attached
- Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

  
\_\_\_\_\_  
Signature of Attorney for  Plaintiff /  Defendant

2/6/2018  
Date Submitted

**SECTION III: Motion Fee**

- PAID - AMOUNT: \$ \_\_\_\_\_
- EXEMPT: (check reason)
  - Rule to Show Cause in Child or Spousal Support
  - Domestic Abuse or Abuse and Neglect
  - Indigent Status  State Agency v. Indigent Party
  - Sexually Violent Predator Act  Post-Conviction Relief
  - Motion for Stay in Bankruptcy
  - Motion for Publication  Motion for Execution (Rule 69, SCRPC)
  - Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
- Name of Court Reporter: \_\_\_\_\_
- Other: \_\_\_\_\_

**JUDGE'S SECTION:**

- Motion fee to be paid upon filing of the attached order.
- Other: \_\_\_\_\_

JUDGE CODE: \_\_\_\_\_

Date: \_\_\_\_\_

**CLERK'S VERIFICATION**

Collected by: D. Yarbrough Date Filed: \_\_\_\_\_  
 MOTION FEE COLLECTED: \$ 25.00  
 CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
FOR THE SIXTEENTH JUDICIAL CIRCUIT

Timothy W. Howe, Individually and as )  
Personal Representative of the Estate )  
of Wayne Ervin Howe, deceased, and )  
Jeanette Howe, )

Civil Action No. 2015-CP-46-03456

Plaintiffs, )

**DEFENDANT CLEAVER-BROOKS, INC.'S  
MOTION FOR SUMMARY JUDGMENT**

v. )

Air & Liquid Systems Corp., et al., )  
 )  
Defendants. )

FILED-RECEIVED  
2018 FEB -9 AM 11:28  
DAVID HAMILTON  
C.C.C.P. & G.S.  
YORK COUNTY, SC

Defendant Cleaver-Brooks, Inc. (herein "Cleaver-Brooks" or "Defendant"),

pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, moves this Court for entry of summary judgment as to all claims asserted by Plaintiff. There is no genuine issue of material fact regarding Cleaver-Brooks. Plaintiff has failed to put forth any evidence of actionable exposure to asbestos from a Cleaver-Brooks product in support of the bare allegations in the Complaint and this Defendant is entitled to judgment as a matter of law.

Cleaver-Brooks, pursuant to Rule 10(c) of the South Carolina Rules of Civil procedure, also adopts and incorporates by reference as if fully stated herein, any and all grounds for dismissal and/or summary judgment asserted at any time by any other Defendant in this case.

Cleaver-Brooks reserves the right to assert additional grounds for dismissal and/or summary judgment as further discovery may dictate.

In further support of summary judgment, Cleaver-Brooks states the following:

## **PROCEDURAL POSTURE**

On September 23, 2016, Plaintiff Timothy Howe, both Individually and as Personal Representative of the Estate of Wayne Ervin Howe, Deceased, and Jeanette Howe, filed this lawsuit against numerous Defendants, including Cleaver-Brooks, alleging that decedent, Wayne Ervin Howe (“Howe”), was exposed to asbestos-containing products manufactured or distributed by Cleaver-Brooks and the other Defendants and that this exposure caused his mesothelioma. The exposure allegedly occurred as a result of Howe’s employment as a pipefitter, welder, rigger and master mechanic at Bowater Paper Mill in Catawba, South Carolina between 1978 and 2007, among other locations.

## **BACKGROUND**

No genuine issue of material fact exists regarding Howe’s alleged exposure to any Cleaver-Brooks asbestos-containing products. Plaintiffs proffered the following exposure witnesses and co-workers: Wayne Ervin Howe (deposed on January 20, 2016, February 2, 2016 and February 3, 2016)<sup>1</sup>, co-worker Wayne Grant (deposed on November 22, 2016 and December 1, 2016), and co-worker Gilbert Small (deposed on April 14, 2010, December 5, 2017 and January 16, 2018). Their testimony, in addition to various documents produced and written discovery responses provided by the parties, comprise the available materials to support Cleaver-Brooks’ Motion for Summary Judgment. None of these witnesses was able to testify to ever seeing Howe work with or around a Cleaver-Brooks product.

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<sup>1</sup> Mr. Howe died before completing his deposition and before Cleaver-Brooks had an opportunity to question him. Cleaver-Brooks is contemporaneously moving to exclude Mr. Howe’s testimony from evidence against Cleaver-Brooks in this case, and does not waive its Motion to Exclude by citing the fact that Mr. Howe did not identify Cleaver-Brooks as the manufacturer of any boiler he worked on or around.

The testimony and documents in the record fail to establish that Howe was exposed to asbestos from a Cleaver-Brooks product at all, let alone on a regular, frequent and proximate basis. Plaintiffs have no evidence to create a reasonable inference that Howe was exposed to any asbestos-containing product manufactured, sold and/or supplied by Cleaver-Brooks. Therefore, Cleaver-Brooks is entitled to summary judgment as a matter of law.

### **EVIDENCE PRESENTED**

#### **1. Testimony of Wayne Ervin Howe**

Defendants deposed Wayne Howe on January 20, 2016, February 2, 2016, and February 3, 2016. Mr. Howe passed away before his deposition could be completed. While Mr. Howe testified to working on and around boilers at several job sites, he could not recall the manufacturer of any of the boilers he may have worked on and around. He also testified that all of the boilers he worked on at Bowater Paper Mill in Catawba, South Carolina were in the power house.

Howe depo 2/3/2016, page 35, lines 18 – 21 attached hereto as **Exhibit 1**.

#### **2. Testimony of Wayne Grant**

Defendants deposed Wayne Grant on November 22, 2016 and December 1, 2016. On November 22, 2016, Mr. Grant testified that he and Mr. Howe tied a precipitator into a boiler at the Celanese facility in Rock Hill, South Carolina. When asked to name the manufacturer or brand name of the boilers, he answered "It was a Riley. It was Cleaver - - Cleaver Mull - - Brooks. Cleaver-Brooks. And there was a Riley - - Riley Brooks, I believe."

Grant depo 11/22/2016, page 89, lines 21 – 23 attached hereto as **Exhibit 2**.

However, on December 1, 2016, Mr. Grant testified that he could not say that he ever saw Mr. Howe doing any work on a Cleaver-Brooks boiler at Celanese in Rock Hill.

Grant depo 12/01/2016, page 354, lines 15 – 25 attached hereto as **Exhibit 3**.

### **3. Testimony of Gilbert Small**

Defendants deposed Gilbert Small on April 14, 2010, December 5, 2017 and January 16, 2018. Mr. Small worked with Mr. Howe at the Bowater Paper Mill in Catawba, South Carolina. Mr. Small testified to working with Mr. Howe in the power house at Bowater. He offered no testimony regarding any Cleaver-Brooks products. In fact, in his April 14, 2010, Mr. Small testified to the manufacturers of the boilers in the power house at Bowater. He identified the boilers in the power house at Bowater as Babcock & Wilcox and Erie City.

Small depo 04/14/2010, page 122, lines 5 – 12, and page 158, line 24 – page 159, line 2, attached hereto as **Exhibit 4**.

Additionally, during his December 5, 2017 deposition, Mr. Small described all of the boilers in the power house at Bowater. "Sure. All righty. Just to make sure that I am on the same page, the powerhouse as far as boilers go, you identified a No. 1 combo boiler, a No. 2 combo boiler, a No. 1 recovery boiler, a No. 2 recovery boiler and a No. 3 recovery boiler. Is that correct? That's correct."

Small depo 12/05/2017, Page 32, lines 12 – 18, attached hereto as **Exhibit 5**.

Mr. Small also provided a map of the Bowater Paper Mill, including the power house, on which he also identified the boilers in the power house as described in the testimony in Exhibit 4. That map is attached here to as **Exhibit 6**.

Mr. Small's testimony and the map that he provided match perfectly with the South Carolina Department of Labor, Licensing and Regulation Boiler Inspection Report for the Bowater Paper Mill in Catawba, South Carolina. The report, attached hereto as **Exhibit 7**, also shows a No. 1 combo boiler (manufactured by Babcock & Wilcox), a No. 2 combo boiler (manufactured by Erie City Iron Works, or, ECIW), a No. 1 recovery boiler (manufactured by Babcock & Wilcox), a No. 2 recovery boiler (manufactured by Babcock & Wilcox), and a No. 3 recovery boiler (manufactured by Babcock & Wilcox), all in the power house at Bowater. There is no evidence of a Cleaver-Brooks boiler in the power house at Bowater.

**4. Cleaver-Brooks Boiler Shipped to Bowater**

The Bowater Paper Mill is the only job site of Mr. Howe's for which Cleaver-Brooks has identified records of shipping a boiler during the relevant time periods. Cleaver-Brooks has located records of shipping a 30 horse power, 36" diameter, Progress Boiler to the Bowater Paper Mill in 1957. This is a very small boiler that would have typically been used for space heating or hot water. It would have no function in the paper production process and is not similar in size or function to any of the boilers described by the Bowater witnesses.

Tornetta depo 02/01/2018, Page 138, line 20 – Page 141, line 10, attached hereto as **Exhibit 8**.

Both the testimony of Mr. Small and the South Carolina Department of Labor, Licensing and Regulation Boiler Inspection Report for the Bowater Paper Mill indicate that the power house at the Bowater Paper Mill contained five boilers. Mr. Small's description of the boilers in the power house at Bowater (both by function and by manufacturer) match perfectly with the South Carolina Department of Labor, Licensing

and Regulation Boiler Inspection Report. When taken together, it is clear that the Cleaver-Brooks boiler shipped to the Bowater Paper Mill in 1957 was not in the power house.

### **SUMMARY JUDGMENT STANDARD**

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, summary judgment must be entered in favor of a party who shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. See *Bishop v. South Carolina Dept. of Mental Health*, 331 S.C. 79, 81, 502 S.E.2d 78, 85-86 (1998); *Baughman v. American Telephone & Telegraph co.*, 306 S.C. 101, 410 S.E.2d 537, 545 (1991). The court must view the evidence in the light most favorable to the non-moving party, *Café Assocs., Ltd. V. Gerngross*, 305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991). "The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact." *Shirley's Iron Works, Inc. v. City of Union*, 387 S.C. 389, 397, 693 S.E.2d 1, 5 (Ct. App. 2010) (citations omitted). Importantly, "[o]nce the party moving for summary judgment meets the initial burden of showing the absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings." *Id.* at 397-98, 693 S.E.2d at 5. Instead, the non-moving party must submit at least a scintilla of evidence to get past summary judgment and proceed to the jury. *Hancock v. Mid-South Mgmt Co., Inc.*, 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

### **AUTHORITIES AND ARGUMENTS**

#### **I. Plaintiff's Exposure Burden in South Carolina Asbestos Cases**

Plaintiff alleges that Howe's mesothelioma and death was caused by his exposure to Cleaver-Brooks' asbestos-containing products. In order to prevail, Plaintiff must show that Cleaver-Brooks' products were a "substantial cause" of Howe's illness. See *Henderson v. Allied Signal, Inc.*, 373 S.C. 179, 185, 644 S.E.2d 724, 727 (S.C. 2007). As described below, Plaintiff cannot establish the requisite causation.

The South Carolina Supreme Court, addressing asbestos related injuries, has stated, "In determining whether exposure is actionable, we adopt the 'frequency, regularity, and proximity test' set forth in *Lohrmann v. Pittsburgh Corning Corp.*, 782 F.2d 1156, 1162 (4<sup>th</sup> Cir. 1986): 'To support a reasonable inference of substantial causation from circumstantial evidence, there must be evidence of exposure to a specific product on a regular basis over some extended period of time in proximity to where the Plaintiff actually worked. We agree with the trial court that 'presence in the vicinity of static asbestos is not exposure to asbestos.'" *Henderson*, 373 S.C. at 185, 644 S.E.2d at 727.

The *Henderson* decision is an application of the fundamental tenant of South Carolina product liability law that in order to prove liability, the Plaintiff must show harm caused by a defective product manufactured and sold by the Defendant. *Bragg v. Hi-Ranger, Inc.*, 319 S.C. 531, 462 S.E.2d 321 (Ct. App. 1995); *Young v. Tide Craft, Inc.*, 270 S.C. 453, 242 S.E.2d 671 (1978). *Accord, Ryan v. Eli Lilly & Co.*, 514 F.Supp. 1004, 1006 (D.S.C. 1981) ("It is elementary that in any action claiming injury from a product, the plaintiff must show a causal connection between the defendant manufacturer and that product. The defendant manufacturer must be identified with the

specific instrumentality that allegedly caused the injury, and this is the law of both North and South Carolina.”).

The “frequency, regularity and proximity” test stems from the basic rule that the decision of the jury must be grounded on evidence that is within the range of “reasonable probability.” *Lohrmann*, 782 F.2d at 1163. When the necessary inferences to be drawn from the evidence are so tenuous that they rest merely upon speculation and conjecture, it is the duty of the court to withdraw the case from the jury. *Id.* According to *Lohrmann*, the “frequency, regularity, and proximity test” is an application of the basic principle of “reasonable probability” in the context of an asbestos exposure case. *Id.*

It is not enough for a Plaintiff to simply show that a company’s asbestos-containing product was present at the Plaintiff’s workplace while the Plaintiff worked there. *Id.* at 1162. The Plaintiff must prove more than just casual or minimum contact with Defendant’s product. *Id.* To meet the test, he must prove exposure to airborne asbestos from a specific product of the Defendant on a regular basis over an extended period of time in proximity to where the Plaintiff actually worked. *Lohrmann*, 782 F.2d at 1162-63; and *Henderson*, 373 S.C. at 185, 644 S.E.2d at 727.

### **SPECULATION AND CONJECTURE**

The record evidence fails to establish that Howe was ever exposed to asbestos associated with a Cleaver-Brooks product. As illustrated by the deposition excerpts and exhibits attached hereto, and the synopsis above, none of the witnesses in this case could testify that Howe ever worked with or around a product manufactured, sold and/or supplied by Cleaver-Brooks. Also, Howe testified that all of the boilers that he worked

on at Bowater were in the power house, and the evidence shows that the Cleaver-Brooks boiler shipped to Bowater in 1957 was not in the power house.

There is no evidence that Howe was in close proximity to any Cleaver-Brooks products at any time. Without proof that Howe worked with or around asbestos-containing Cleaver-Brooks products, frequently, regularly, and in close proximity over an extended period of time, there is no reasonable basis on which a jury can infer that Howe was exposed to asbestos from Cleaver-Brooks' products. Thus, Cleaver-Brooks is clearly entitled to summary judgment.

**II. Plaintiff Has Failed to Put Forth Sufficient Evidence of Exposure.**

As noted above, Plaintiff alleges Howe's exposure to Defendants' asbestos and asbestos-related materials generally, but Plaintiff has not provided any specific evidence as to Howe's claimed exposure to asbestos from a Cleaver-Brooks product, through testimony or otherwise, to defeat this Motion. Indeed, Plaintiff has failed to tender any fact witnesses at all in this case who could testify that Howe worked with or around a Cleaver-Brooks product at all.

Clearly, in accordance with past holdings by this Court, the testimony offered by the witnesses in this case is insufficient for Plaintiff to meet his burden as to Cleaver-Brooks. See, e.g., *Paula R. Meek et al. v. Alcan Products Corp. et al.*, Order Granting Various Defendants' Motions for Summary Judgment, Civil Action No. 2011-CP-23-5890 at 6 (Greenville Co. Court of Common Pleas, January 3, 2012) (granting summary judgment under *Henderson* where Plaintiffs presented evidence that (1) Defendants' asbestos-containing products were onboard the same Navy vessels as the Plaintiff, and (2) the Plaintiff "more likely than not" would have come into contact with those

products). In this case, while there is evidence of a Cleaver-Brooks product being at a site where Howe worked, there is no evidence that Howe “more likely than not” would have come into contact with that product. In fact, the evidence is that Howe would not have come into with that product. Moreover, using the *Lohrmann/Henderson* standard set forth above, other Courts have granted summary judgment in circumstances where there was far more exposure evidence than there is here. To wit:

- The *Lohrmann* Court upheld summary judgment where the Plaintiff “testified that he was exposed to an asbestos-containing pipe covering called Unibestos on **ten to fifteen occasions** of between **one and eight hours** duration during the term of his employment,” because such evidence “was not sufficient to raise a permissible inference that such exposure was a substantial factor in the development” of the Plaintiff’s disease. See *Lohrmann*, 782 F.2d at 1163 (emphasis added).
- Judge Eduardo C. Robreno, the Presiding Judge of MDL 875 (the Federal Asbestos MDL), has granted summary judgment under the “frequency, regularity, and proximity test” because there was “no testimony from [the Plaintiff] establishing that he regularly and frequently changed Goodyear brake components” where the Plaintiff admitted he “could not recall how often he performed maintenance” and could not “accurately estimate how often” his work on the products occurred. See *Seitz, et al. v. Adel Wiggins Group et al.*, Order, Case No. 2:09-cv-60004-ER, Doc. 212 (Sept. 17, 2010).
- Judge Robreno similarly granted summary judgment in the same case because the Plaintiff’s testimony that he was in areas where maintenance was performed on the product at issue was “insufficient under *Lohrmann* to raise a genuine issue of material fact as to causation.” See *id.* at Docs. 210 & 211.
- More recently, the same Court granted summary judgment under *Henderson* where there was testimony that the Plaintiff worked with a Defendant’s product “on at least several different cars, including a 1966 Ford Fairlane.” *Baxley v. Advance Auto Parts, Inc., et al.*, Order, Case No. 2:11-cv-63922-ER, Doc. 133 (Jan. 4, 2013) (Robreno, J.) (granting summary judgment because “even if exposure to dust from [the product at issue] did occur, as alleged by Plaintiff, there is no evidence that this exposure occurred with the frequency or regularity required by South Carolina law”).

Summary judgment must, therefore, be granted because there is no exposure evidence that could possibly cause this case to go to a jury as to Cleaver-Brooks pursuant to *Henderson* and its subsequent progeny.

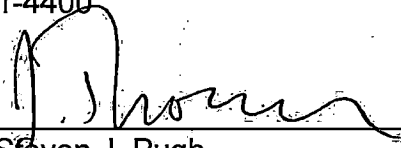
### **CONCLUSION**

The evidence in this case utterly fails to demonstrate that Howe was frequently or regularly in close proximity to asbestos from a Cleaver-Brooks product. Under the rule established in *Henderson*, there is no genuine issue of material fact, and Cleaver-Brooks is entitled to judgment as a matter of law on Plaintiffs' claims.

WHEREFORE, Cleaver-Brooks, Inc., respectfully requests that the Court grant its Motion for Summary Judgment as to all counts of Plaintiffs' Complaint. In the alternative, to any matters on which summary judgment is not granted, this Defendant respectfully requests that this Court determine which facts remain disputed. As to all matters on which there is no genuine issue of material fact, this Defendant respectfully requests the Court grant partial summary judgment. This Defendant prays for such other and further relief, both general and special, legal or equitable, to which it may be justly entitled.

RICHARDSON PLOWDEN & ROBINSON, P.A.  
1900 Barnwell Street  
Post Office Box 7788  
Columbia, South Carolina 29201  
803-771-4400

By: \_\_\_\_\_

  
Steven J. Pugh  
Joseph E. Thoensen

ATTORNEYS FOR DEFENDANT  
CLEAVER-BROOKS, INC.

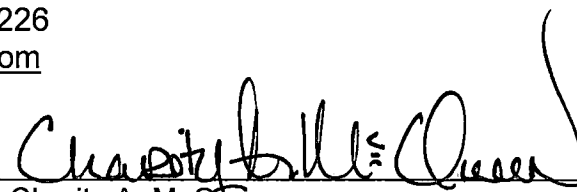
February 6, 2018

**CERTIFICATE OF SERVICE**

I, Charity A. McQueen, an employee of Richardson Plowden & Robinson, P.A., do hereby certify that a copy of the **DEFENDANT CLEAVER-BROOKS, INC.'S MOTION FOR SUMMARY JUDGMENT** in the above-referenced matter has been served upon the following counsel of record, through e-mail and/or the United States Mail, Postage Prepaid, First Class, addressed as follows:

Theile B. McVey, Esquire  
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Charity A. McQueen

February 6, 2018

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2018 FEB -9 AM 11:28  
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

# Exhibit 1

1 STATE OF SOUTH CAROLINA  
2 COUNTY OF YORK IN THE COURT OF COMMON PLEAS

3

4 WAYNE ERVIN HOWE,

5 Plaintiff(s),

6 vs.

Case No.: 2015-CP-46-3456

7 AIR & LIQUID SYSTEMS CORP., INDIVIDUALLY  
8 AND AS SUCCESSOR-IN-INTEREST TO  
9 BUFFALO PUMPS, INC., ET AL.,

10 Defendant(s).

11

12

D E P O S I T I O N

13 WITNESS: WAYNE ERVIN HOWE

14 DATE: Wednesday, February 3, 2016

15 TIME: 10:31 a.m.

16 LOCATION: Baxter M. Hood Center  
17 452 Anderson Road  
18 Rock Hill, South Carolina

19 TAKEN BY: Attorneys for the Defendants

20 REPORTED BY: SHERI L. BYERS  
Registered Professional Reporter

-----

21 COMPUSCRIPTS, INC.  
22 Client focused. Deadline driven.

23 CHARLESTON COLUMBIA HILTON HEAD GREENVILLE MYRTLE BEACH

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25 888.988.0086

1 us would start pulling the gaskets off the doors and  
2 replacing all them. Some of us would go in the boiler  
3 and start cutting tubes out, replacing tubes. And then  
4 I might be on crew. There was a welding, a lot of  
5 welding a lot of seems up. Doing a lot of patch work.  
6 Might have been -- changed a lot of valves. Changed a  
7 lot of valves.

8 Q. Do you remember the name brand or trade name  
9 of any of the boilers that you might have worked on  
10 during a shutdown?

11 A. I don't remember names of them.

12 Q. And when you would do one of these things  
13 once a -- what I call once-a-year shutdown work on a  
14 boiler, how long would the project take?

15 A. Usually I think we went two weeks on those  
16 boilers. I'm going to say two weeks. I'm going to say  
17 two weeks.

18 Q. The boilers that you worked on during annual  
19 work, were they all in the powerhouse or were they  
20 dispersed throughout the plant?

21 A. No, they were all in the powerhouse.

22 Q. How many boilers do they have in the  
23 powerhouse, if you remember?

24 A. Six, I think. Yeah, six. I'm not real  
25 positive about that number.

# Exhibit 2

1 STATE OF SOUTH CAROLINA  
IN THE COURT OF COMMON PLEAS  
2 COUNTY OF YORK

3

4 GARY DEAN SMITH, INDIVIDUALLY AND AS  
PERSONAL REPRESENTATIVE OF THE ESTATE  
5 OF CHARLOTTE GAYE SMITH,

6 Plaintiff(s),

7 vs. Case No.: 2015-CP-46-02155

8 CBS CORPORATION, ET AL.,

9 Defendant(s).

10 (Captions continued on the following page.)

11

12 D E P O S I T I O N

13 WITNESS: WAYNE GRANT

14 DATE: Tuesday, November 22, 2016

15 TIME: 11:03 a.m.

16 LOCATION: Fewell Recreation Center  
1204 Alexander Road  
17 Rock Hill, South Carolina

18 TAKEN BY: Attorneys for the Plaintiffs

19 REPORTED BY: SHERI L. BYERS  
Registered Professional Reporter

20 - - - - -

21 COMPUSCRIPTS, INC.  
Client focused. Deadline driven.

22

23 CHARLESTON COLUMBIA HILTON HEAD GREENVILLE MYRTLE BEACH

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25

1 DEFENSE COUNSEL: Object to the form.

2 BY MS. MCVEY:

3 Q. And would you and Wayne Howe breathe that  
4 dust in?

5 DEFENSE COUNSEL: Object to the form.

6 THE WITNESS: Yes, ma'am.

7 BY MS. MCVEY:

8 Q. You discussed at some point tying in to the  
9 boiler; is that right?

10 A. Yes, ma'am.

11 Q. And how would you all do that? What would  
12 you all be doing?

13 A. Well, when we tied in to the boiler itself,  
14 we had to tear off the insulation and go in there and  
15 weld the flange on there, cut -- cut the metal out and  
16 go in there to -- it would generally come out right in  
17 there next to the mud drum is where it was coming  
18 right -- right off the edge of the mud drum.

19 Q. Okay. Do you recall the manufacturer or the  
20 brand of the boilers that you all were tying in to?

21 A. It was a Riley. It was Cleaver -- Cleaver  
22 Mull -- Brooks. Cleaver-Brooks. And there was a  
23 Riley -- Riley Brooks, I believe.

24 Q. Okay. So Cleaver-Brooks and then a Riley --  
25 was it Stoker?

# Exhibit 3

1 STATE OF SOUTH CAROLINA  
2 COUNTY OF YORK IN THE COURT OF COMMON PLEAS

3

4 GARY DEAN SMITH, INDIVIDUALLY AND AS  
5 PERSONAL REPRESENTATIVE OF THE ESTATE  
6 OF CHARLOTTE GAYE SMITH,

7 Plaintiff(s),

8 vs. Case No.: 2015-CP-46-02155

9 CBS CORPORATION, ET AL.,

10 Defendant(s).

11 (Captions continued on the following page.)

12

VOLUME II

13

D E P O S I T I O N

14 WITNESS: WAYNE GRANT

15 DATE: Thursday, December 1, 2016

16 TIME: 9:06 a.m.

17 LOCATION: Holiday Inn  
503 Galleria Boulevard  
18 Rock Hill, South Carolina

19 TAKEN BY: Attorneys for the Plaintiffs

20 REPORTED BY: SHERI L. BYERS  
Registered Professional Reporter

21 - - - - -

22 COMPUSCRIPTS, INC.  
Client focused. Deadline driven.

23 CHARLESTON COLUMBIA HILTON HEAD GREENVILLE MYRTLE BEACH  
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25

1           A.    Yes, sir.

2           . Q.    Okay.  When we were together last week at the  
3 recreation center, you mentioned the name  
4 Cleaver-Brooks when Ms. McVey was asking you about  
5 boilers at Celanese.  And I will represent to you that  
6 Cleaver-Brooks never manufactured a boiler of that size  
7 or that type.

8                    So with that representation in mind, is it  
9 possible that Cleaver-Brooks is a name of a boiler you  
10 recall from some period but not necessarily at Celanese  
11 in Rock Hill?

12                   MS. MCVEY:  Object to the form.

13                   THE WITNESS:  Yes.

14 BY MR. THOENSEN:

15           Q.    Okay.  And so with all of that in mind,  
16 you're not able to testify specifically that you saw  
17 Mr. Howe doing any work on a Cleaver-Brooks boiler at  
18 Celanese and Rock Hill, could you?

19                   MS. MCVEY:  Object to the form.

20                   THE WITNESS:  Yes.

21 BY MR. THOENSEN:

22           Q.    You could?

23           A.    No.

24           Q.    You could not do that?

25           A.    No, I couldn't.

# Exhibit 4

1 STATE OF SOUTH CAROLINA  
 2 COUNTY OF YORK  
 3 IN RE: ASBESTOS PRODUCTS LIABILITY LITIGATION  
 4 THOMAS HENRY POLK, JR. AND BETTY POLK,  
 5 Plaintiff(s),  
 6 vs. Case No: 08-CP-46-3291  
 7 BAYER CROPS SCIENCE, INC., ET AL.,  
 8 Defendant(s).

9  
10 D E P O S I T I O N

11 WITNESS: GILBERT SMALL  
 12 DATE: Wednesday, April 14, 2010  
 13 TIME: 2:15 p.m.  
 14 LOCATION: Hilton Garden Inn  
 650 Tinsley Way  
 15 Rock Hill, South Carolina  
 16 TAKEN BY: Attorneys for the Defendants  
 17 REPORTED BY: SHERI L. BYERS  
 Registered Professional Reporter

18  
19 - - - - -

20 COMPUSCRIPTS, INC.  
 21 A Full-Service Court Reporting Agency  
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 22 Columbia, South Carolina 29202  
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 23 www.compuscriptsinc.com

24  
25

1 Q. Okay. Would he be the best person to tell  
2 us about how many times he would have worked on  
3 different boilers?

4 A. Yes.

5 Q. And you said you recall the specific  
6 instances when we worked on -- I think you mentioned  
7 number one combination --

8 A. Yes, sir.

9 Q. -- and number one recovery?

10 A. Yes, sir. Shutdowns.

11 Q. Okay. Those were Babcock & Wilcox?

12 A. Yes, sir.

13 Q. Okay. And you mentioned another -- the  
14 number -- you said one other time you think he would  
15 have worked on a boiler?

16 A. Yeah. The number one recovery. Is that  
17 what you were saying?

18 Q. Maybe I misheard you. I thought you  
19 mentioned three times.

20 A. Well, he -- he worked on the boilers  
21 numerous times.

22 Q. Right.

23 A. Well, are you talking about the IK  
24 incident?

25 Q. Actually, I'm not talking about the IKs.

1 product that you recall?

2 A. No, sir. Not -- stick on your hands. It  
3 was sticky.

4 MR. PECK: Okay. I think we're clear now.  
5 Thank you.

6 MR. MERIWETHER: I have one follow up. I  
7 think I forgot to ask you this before.

8 THE WITNESS: You know what they say about  
9 that final question.

10 REEXAMINATION

11 BY MR. MERIWETHER:

12 Q. Mr. McDonald reminded me.

13 Did you ever see Mr. Polk looking at an  
14 instruction manual or something from the manufacturer  
15 about a Buffalo pump?

16 A. I can't swear to that.

17 MR. MERIWETHER: Okay. Thank you. That's  
18 all I got.

19 MR. GRAHAM: Anybody else?

20 EXAMINATION

21 BY MR. GRAHAM:

22 Q. I've got just a couple of questions.

23 A. Yes, sir.

24 Q. Have you named all of the boilers that were  
25 at Bowater?

1 A. There's one I haven't mentioned. Number  
2 two combination boiler is an Erie City boiler.

3 Q. And was there when you got there?

4 A. Yes, sir.

5 Q. And did you ever work on that boiler?

6 A. A lot.

7 Q. Did Tommy Polk work on that boiler?

8 MR. TRAYLOR: Objection to form.

9 THE WITNESS: What?

10 MR. TRAYLOR: I said objection to form.

11 THE WITNESS: I'm sure he did. I can't  
12 pinpoint a time or anything.

13 BY MR. GRAHAM:

14 Q. Okay. What kind of work would you do on  
15 that boiler?

16 A. That's where we worked on boiler doors. We  
17 worked on fans. We worked on grate bars.

18 Q. What are they called?

19 A. Grate bars. You burn the bar --

20 Q. That's not a candy bar, is it?

21 A. No. You wouldn't like this one. It's --  
22 you got traveling chains and these grate bars are on  
23 these chains and they're on the bed of the bar. And  
24 as the bark is fed into the boiler and it hits the  
25 burners in there and it's burning it, it goes down on

# Exhibit 5

STATE OF SOUTH CAROLINA

IN THE COURT OF  
COMMON PLEAS

COUNTY OF YORK

C/A No. 2015-CP-46-03456

TIMOTHY W. HOWE, as Personal )  
Representative of the Estate of )  
WAYNE E. HOWE, deceased, and )  
JEANETTE HOWE, surviving spouse, )

Plaintiffs, )

-vs- )

AIR & LIQUID SYSTEMS CORP., )  
individually and as )  
successor-in-interest to )  
Buffalo Pumps, Inc.; )

ALBANY INTERNATIONAL CORP.; )

ASTEN-JOHNSON, INC.; )

AURORA PUMP COMPANY; )

A.W. CHESTERTON COMPANY; )

BORG WARNER MORSE TEC, INC., as )  
successor to Borg-Warner )  
Corporation; )

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; )

CGR PRODUCTS, INC., f/k/a )  
Carolina Gasket and Rubber )  
Company; )

CNA HOLDINGS, INC., f/k/a )  
Hoechst Celanese Corporation; )

CELANESE CORPORATION, f/k/a )  
Hoechst Celanese Corporation )  
(sued individually and as )  
successor-in-interest to Fiber )  
Industries, Inc.); )

1 CLEAVER BROOKS, INC.; )  
)  
2 COVIL CORPORATION; )  
)  
3 CRANE CO.; )  
)  
4 CROWN CORK & SEAL COMPANY, )  
INC.; )  
5 )  
6 DANIEL INTERNATIONAL )  
CORPORATION; )  
)  
7 FLUOR ENTERPRISES, INC., f/k/a )  
Fluor Daniel, Inc., f/k/a )  
8 Daniel Construction Company, )  
Inc.; )  
9 )  
10 FLUOR DANIEL SERVICES )  
CORPORATION; )  
)  
11 FOSTER WHEELER ENERGY )  
CORPORATION; )  
12 )  
13 GENERAL ELECTRIC COMPANY; )  
)  
14 THE GORMAN-RUPP COMPANY; )  
)  
15 GOULDS PUMPS, INCORPORATED; )  
)  
16 INGERSOLL RAND COMPANY; )  
)  
17 METROPOLITAN LIFE INSURANCE )  
COMPANY, a wholly-owned )  
18 subsidiary of Metlife, Inc.; )  
)  
19 PEERLESS PUMP COMPANY; )  
)  
20 PRESNELL INSULATION, INC.; )  
)  
21 RILEY POWER, INC., individually )  
and as successor-in-interest to )  
22 Babcock Borsig Power, Inc., and )  
Riley Stoker Corporation, )  
individually and as )  
23 successor-in-interest to D.B. )  
Riley; )  
24 )  
25 SEPCO CORPORATION; )  
)



1 installed it.

2                   And then outside of that, No. 3  
3 recovery. And both of No. 2 and No. 3 recovery  
4 burned black liquor. It was sprayed into the boiler.  
5 There was cleats welded on the tubes in the inside of  
6 the boiler and that liquor, we call it heavy liquor  
7 then, it was blown into the boiler and it would smelt  
8 down those tubes and go to the bottom. Once it  
9 smelted all the way down, it became green liquor.

10           Q.       Okay.

11           A.       It had another purpose.

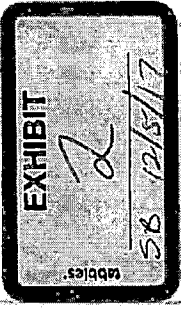
12           Q.       Sure. All righty. Just to make sure  
13 that I am on the same page, the powerhouse as far as  
14 boilers go, you identified a No. 1 combo boiler, a  
15 No. 2 combo boiler, a No. 1 recovery boiler, a No. 2  
16 recovery boiler and a No. 3 recovery boiler. Is that  
17 correct?

18           A.       That's correct.

19           Q.       Now, do you remember if you worked on  
20 any evaporators in the powerhouse?

21           A.       We had pumps in the evaporators that we  
22 had that we worked on them and we also had to go  
23 inside of the evaporators. There was plates in the  
24 evaporators and we had -- if a plate broke loose or  
25 something on that order, we would have to reweld them

# Exhibit 6



Woody and

Power House

#3 Recovery

#2 Recovery

#1 Recovery Boiler

#2 Comb Boiler

2 Evaporators

Bleach Plant etc.

Pulp Deyer

Pulp Mill

#1 Paper Machine

#3 Paper Machine

#2 Paper Machine

Gate

Old  
Grain Mill

Grain  
Mills

Digestors

Mill

# Exhibit 7

# Location Detail

Search Criteria: NOB/SIC: ;Address 1: ;City: ;Zip: ;County: ;Order Results by: Location Name; Then Order by: Address

**Location:** Resolute Forest Products Inc. Catawba Paper Mill  
**Address:** 5300 Cureton Ferry Rd - Catawba, SC 29704-7700  
**County:** York  
**FIPS:** 45091  
**Primary Contact:** Mike Kent - Phone: (803)981-8058  
**Billing Contact:** Joe Coombs - PO Box 7 Catawba, SC 29704-0007 - Phone: 803-981-8058

**Location ID:** 983040  
**Phone:** 803-981-8206  
**NOB/SIC:** R104165151  
**Establishments:** Establishments

Juris #	Owner #	Type	Use	NB	Serial	Manufacturer	Year Built	Due Date	Inspect Type	Status	Location
SC000937	No. 2 Combination	WATERTUBE	POWER	NB 17579	SN0513	ECIW	1968	11/01/2018	Recurring Cert	Active	#2 Combo Blr - Powerhouse
SC001251	No. 2 BLRB	WATERTUBE	POWER	NB 2183		Babcock & Wilcox	1965	11/01/2018	Recurring Cert	Active	#2 Rec Blr - Power House
SC001252	No. 3 BLRB	WATERTUBE	POWER	NB 24676		Babcock & Wilcox	1982	03/31/2018	Recurring Cert	Active	#3 Rec Blr - Powerhouse
SC001304	No. 1 Combination	POWER BOILER	POWER	NB 20038		Babcock & Wilcox	1958	06/05/2099	Recurring Cert	Active	#1 Combo Blr - Powerhouse
SC001456		HOT WATER HEATING	HOT WATER HEATER	158135		Raypak	2000	07/08/2016	Recurring Cert	Active	New Admin Building
SC001457		HOT WATER HEATING	HOT WATER HEATER	1457		Weil-McLain	1985	07/08/2016	Recurring Cert	Active	New Admin Building
SC001458		HOT WATER HEATING	HOT WATER HEATER	1458		Slant Fin	1980	07/08/2016	Recurring Cert	Scrapped	old admin building
SC001459		HOT WATER HEATING	HOT WATER HEATER	1459		Slant Fin	1980	07/08/2016	Recurring Cert	Scrapped	old admin building
SC001460		HOT WATER HEATING	HOT WATER HEATER	1460		Slant Fin	1980	07/08/2016	Recurring Cert	Scrapped	old admin building
SC001485	No. 1 Recovery/Strng Boiler	HIGH PRESSURE BOILER	POWER	NB None		Babcock & Wilcox	1958	10/12/2018	Recurring Cert	Active	#1 Rec Blr - Powerhouse

Total Objects at this Location: 10

**SC DEPT. OF LABOR, LICENSING & REGULATION**

Certified a true copy in compliance with  
Section 19-5-10, S. C. Code

*J. S. Kelle* 11-17-17  
Public Information Director Date

# Exhibit 8



1 all located in one place that you can just go pull  
2 out all the drawings related to this boiler. It's  
3 sort of a matrix, I guess I would call it, of  
4 documents. The drawings themselves are listed by  
5 drawing number. And there's, like, a prefix/suffix  
6 arrangement; so you would go to the prefix number and  
7 search for the suffix within that.

8 So it's kind of this -- for the drawings  
9 themselves this expanding tree of assemblies that  
10 you're looking for all of those for which ultimately  
11 end up in those parts descriptions. So it's kind of  
12 this --

13 Q So you kind of start from the very general.

14 A Yes.

15 Q And then you wind your way down to the very specific?

16 A Correct.

17 Q But it's not necessarily a straight line; is that  
18 what you're saying?

19 A Yes.

20 Q Oh, and with regard to the Progress boiler that's at  
21 issue for Bowater, I know you said it was 36 inches  
22 in diameter. How long -- or what are the rest of the  
23 measurements?

24 A 36-inch diameter is the shell of the boiler; so with  
25 the, you know, the lagging or the sheet metal that

1 goes around it and some of the controls on the side,  
2 you might look at the extent of it being four feet  
3 width, roughly four feet in height because it sits up  
4 on some base rails. The length of the shell is just  
5 under six feet, it's 70 inches long. So if we add on  
6 a foot for the front door and a little over a foot  
7 for the back door, it's probably about eight feet  
8 long.

9 Q Okay. And how does this boiler compare in size to  
10 the boilers that Mr. Howe and some of his co-workers  
11 described in their testimony? You referred to them  
12 as field erected boilers earlier.

13 A Yeah. The descriptions I saw as I went through that  
14 seemed all to relate to large field erected boilers,  
15 I think somebody said four or five stories or 400 or  
16 500 feet tall, field erected. I think one of the  
17 testimony was talking about it hanging from frame  
18 steel work and being 100 feet by 100 feet as the size  
19 of the boiler.

20 Q And is that description that you've just provided  
21 consistent with anything that Cleaver-Brooks sold  
22 during this time frame?

23 A No.

24 Q You mentioned in response to Ms. Stone's questions  
25 that you -- while you put in place the boiler per se,

1       you thought more likely than not it would not have  
2       been in the powerhouse. Do you remember that  
3       testimony?

4   A    Yes.

5   Q    What kinds of services could a boiler of this size  
6       provide?

7   A    15 psi steam in that time period was probably most  
8       likely used for either space heating, so conditioning  
9       air in one way or another, or domestic hot water  
10      heating, showers, sinks, things of that sort. As I  
11      said before, in a facility like that that sounded  
12      like it was pretty large, covered a lot of acreage,  
13      that has apparently some very large boilers for their  
14      production, it wouldn't be unusual for steam in those  
15      buildings to be used right off of that unless you got  
16      to a point in the facility that it made more sense to  
17      buy this relatively small boiler than it did to run a  
18      steam line to a remote building.

19   Q    So you said that this boiler could have been used to  
20      provide hot water. So is it similar to what we have  
21      in our homes, like hot water heater, or more complex?

22   A    Certainly more complex than what you have in your  
23      home for a hot water heater. And larger. Even  
24      though it's one of the smallest boilers  
25      Cleaver-Brooks would have made at the time, it's

1 still larger than most single-family homes would  
2 require.

3 Q Okay. Now, do you recall there being some testimony  
4 that the boilers at Bowater burned bark or green  
5 liquor or black liquor?

6 A Yes.

7 Q Could this boiler have burned any of those?

8 A No. It was designed to burn natural gas; and in the  
9 interim while they were getting natural gas, it  
10 burned propane.

11 Q And you mentioned that it burned propane that was in  
12 bottles initially?

13 A Yeah. It sounded like there were small propane  
14 tanks, I think it referred to as bottles of propane.  
15 So I pictured the type you see supplying a home with  
16 propane.

17 Q Okay. With regard to the Smith case, there was a lot  
18 of discussion about what you did and didn't search.  
19 Do you have a recollection of searching various  
20 worksites for the Charlotte Smith case?

21 A Yes. I'm certain I did some type of searching for  
22 the Smith case.

23 Q And --

24 MS. STONE: Objection, form.

25 BY MS. SPARDONE:

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF YORK ) SIXTEENTH JUDICIAL CIRCUIT

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2018 FEB 21 PM 2:59

DAVID HAMILTON  
C.C. P. & G.S.  
YORK COUNTY, SC

**TIMOTHY W. HOWE,**  
Individually and as Personal ) **C/A NO. 15-CP-46-03456**  
Representative of the Estate of )  
**WAYNE ERVIN HOWE, deceased,** )  
and **JEANETTE HOWE,** )

Plaintiffs, )

v. )

**AIR & LIQUID SYSTEMS**  
**CORPORATION, et al.,** )

Defendants. )

**PLAINTIFFS' RESPONSE IN  
OPPOSITION TO DEFENDANT  
CLEAVER-BROOKS, INC.'S  
MOTION FOR SUMMARY  
JUDGMENT**

Plaintiffs Timothy W. Howe, Individually and as Personal Representative of the Estate of Wayne Ervin Howe, deceased, and Jeanette Howe oppose the motion for summary judgment filed by Defendant Cleaver-Brooks, Inc. ("Cleaver-Brooks"), and would respectfully show the Court that the motion should be denied.

### INTRODUCTION

Decedent Wayne Ervin Howe was exposed to asbestos during his work as a pipefitter, manual laborer, general construction worker, and steel worker at various locations outside of and throughout the state of South Carolina. Mr. Howe worked at one or more of the Hoechst Celanese facilities and, along with other facilities, at the Bowater facility in Rock Hill, South Carolina. Mr. Howe was diagnosed with asbestos-caused malignant mesothelioma on May 19, 2015 and died from this disease on March 7, 2016.

Part of Mr. Howe's various jobs required him to engage in work activities pertaining to the maintenance, repair, and construction of precipitators attached to boilers. He also occasionally

performed maintenance and repair work inside of some boilers at various locations. Additionally, Wayne Howe was often in close proximity to insulators who were insulating the boilers themselves. This work, done by himself and others, created dust which Howe inhaled.

Cleaver-Brooks contends that it is entitled to summary judgment because Plaintiffs have failed to produce any evidence to demonstrate that Wayne Howe was exposed to an asbestos-containing product attributable to Cleaver-Brooks. This motion for summary judgment should be denied because Plaintiffs' evidence creates genuine issues of material facts regarding Wayne Howe's exposure to asbestos while performing maintenance on or working in close proximity to those performing maintenance on boilers manufactured by Cleaver-Brooks.

### **STATEMENT OF FACTS**

#### **I. Wayne Howe was exposed to asbestos from Cleaver-Brooks boilers.**

##### **A. Testimony of Wayne Ervin Howe**

In 1962, Wayne Howe began working at Associated Mechanical Erectors (AME). **Ex. 35**, Deposition of Wayne Ervin Howe, Vol.2, taken 2/2/16, at 18:21-19:9. His job duties, from 1962 until 1965, included steel rigging and mechanical work. *Id.* at 19:20-23. Steel rigging involved erecting the iron frames of building. *Id.* at 19:24-20:5. As for mechanical work, Howe would assist the master mechanic in putting in motors and pumps. *Id.* at 20:8-11. Howe recalled being involved in the construction of "Old Celanese," various smaller buildings, and a building in Chester. *Id.* at 20:25-21:9.

Mr. Howe returned to work at AME in 1967 after leaving the Army. *Id.* at 52:15-18. Sometime after returning to AME, his title changed to working supervisor. *Id.* at 53:12-25. Mr. Howe believed that he was exposed to asbestos during his second term at AME because part of his duties included removing insulation from pipes and ductwork. *Id.* at 55:15-21. He was also in close

proximity of others installing the insulation on the ductwork and precipitators. Id. at 55:21-22.

While Mr. Howe was not an insulator, he recalled working in close proximity to insulators that were manipulating or cutting insulation. Id. at 38:16-24. Cutting and manipulating the insulation created dust in the air. Id. at 38:25-39:2. The dust would enter Howe's work area and he would breathe that dust. Id. at 39:3-10. The time that Howe spent in close proximity to the insulators varied depending on the job as it could be anywhere from daily to once a month. Id. at 39:11-15.

In addition to installing the new precipitators, Mr. Howe also recalled working inside a few boilers. Id. at 66:2-5. In his ten years with AME after leaving the Army, Howe recalled working with the actual boiler approximately 10 times. Id. at 66:6-9. Inside the boiler, Howe would cut out flanges or put in new flanges. Id. at 66:12-24. He has also had to replace the firebrick associated with the boiler. Id. at 67:18-3. He replaced the firebrick at the Celanese plant in Rock Hill and recalled working inside the boilers at Bowater and at the Celanese plants. Id. at 66:25:67:9; 67:22-68:7. As Howe was building the precipitators, the insulators were working behind him and working in his workspace. Id. at 68:16-69:2.

Mr. Howe began working for Beta Construction in 1978. Id. at 19:21-20:7. His initial job title was with mechanic or steel rigger. Id. at 20:25-21:11. At Beta, Mr. Howe worked at the Bowater plant in Rock Hill, South Carolina, as a subcontractor. Id. at 21:17-22:3. At the time that Mr. Howe worked at Bowater, the plant was manufacturing paper. Id. at 22:4-6. Howe believed that he was exposed to asbestos while working at Bowater while removing insulation from pipes and ductwork; from working on the boilers and installing a new precipitator. Id. at 22:7-18.

Occasionally, Howe also worked in close proximity to others working on boilers during the shutdown. Id. at 33:17-34:4. Once a year, Howe would have to participate in major

maintenance on boilers; other times, approximately once a month, he would have to complete small repairs. Id. at 34:6-10. Sometimes, Howe would be stationed in the powerhouse where the boilers were located at different periods throughout the year. Id. at 34:10-12. Mr. Howe testified that there were six boilers in the powerhouse. Id. at 35:22:25. The boilers stood approximately 50-feet high and 50-feet wide and deep. Id. at 36:1-4. Some of the boilers may have been smaller. Id. at 36:6-8. He described that when he was working on or around the boilers:

Well, first of all, we get boiler opened up and everything, and then probably we would - - some of us would start pulling the gaskets off the doors and replacing all them. Some of us would go in the boiler and start cutting tubes out, replacing tubes. And then I might on crew. There was a welding, a lot of welding a lot of seems up. Doing a lot of patch work. Might have been - - changed a lot of valves. Changed a lot of valves.

Id. at 34:24-35:7. Boiler projects usually lasted two weeks. Id. at 35:12-17. According to Mr. Howe, the boilers at Bowater were installed sometime in the 1950s. Id. at 36:20-25. Mr. Howe agreed that the boilers were coal-burning and a couple of the boilers burned natural gas. Id. at 37:22-25. Periodic maintenance—once a month—included changing valves and gaskets and welding holes in the ductwork associated with the boilers. Id. at 40:10-16.

In 1985, Howe began working for Bowater as a pipefitter. Id. at 78:1-15. As a pipefitter, Howe worked on valves and pipes. Id. at 78:13-15. He worked at Bowater for 22 years and was promoted from pipefitter to master mechanic. Id. at 78:25-79:9. As a pipefitter, Howe worked on valves and machinery. Id. at 80:15-19. He also worked on pumps changing gaskets and packing. Id. at 80:20-81:8. Howe worked on radiators, precipitators, and boilers. Id. at 81:11-82:18.

As a pipefitter, Howe also worked on pipes connected to boilers at Bowater. He worked on valves on the boilers and the pipes running into the boiler, fire tubes and water tubes. Id. at 98:20-99:10. Occasionally, when working on the boiler, Howe would have to remove insulation from the outside of the boiler. Id. at 99:22-100:4. He also worked on any gaskets or seals on the boiler. Id.

at 100:5-10. Howe recalled conversations about safety while working at Bowater but noted that these discussions did not include asbestos. Id. at 85:21-86:12. Also, he could not recall any discussions on the subject of asbestos abatement. Id. at 86:23-87:2.

B. Testimony of Gilbert Small

Gilbert C. Small Jr. worked with Wayne Howe at Bowater and confirms much of Mr. Howe's testimony. Small testified that he began working at Bowater in April of 1968. Ex. 2, Deposition of Gilbert C. Small, Jr., 12/5/17, at 4:9-11. Small testified that the boilers were located in the powerhouse at Bowater. Id. at 19:20-23. According to Small, the power house, as to boilers, contained "a No. 1 combo boiler, a no. 2 combo boiler, a No. 1 recovery boiler, a No. 2 recovery boiler[,] and No. 3 recovery boiler." Id. at 23:6-24:12. The precipitators were insulated which was a necessity to capture the steam and heat being produced. Id. at 25:15-22. The precipitators were connected to all of the boilers. Id. at 28:9-24.

Small recalled that Wayne Howe worked all over the Bowater facility. Id. at 19:12-15. He also saw Wayne Howe work on all of the equipment located in the power house. Id. at 29:25-30:4.

C. Testimony of Wayne Grant

Wayne Grant worked alongside Mr. Howe in various locations. One of those locations included Celanese Rock Hill where he and Howe assisted in building a precipitator. Ex. 27, Deposition of Wayne Grant, 11/12/16, at 83:13-14. Grant noted that the precipitators were hooked into boilers. Id. at 84:2-8. He testified that they would have to remove the insulation which was block insulation covered with black tar and chicken wire. Id. at 85:2-86:18. Removing the insulation created dust which he and Mr. Howe breathed. Id. at 86:19-87:11. They would later have to clean their work areas, either sweeping the dust, picking up debris by hand, or using a shovel. Id. at 87:13-88:11. Cleaning up the insulation created dust in the air which Grant and Howe

breathed. Id. at 88:13-89:6. He noted that it took approximately one year to build the precipitator at Celanese Rock Hill. Id. at 92:23-93:1.

The precipitator's piping had to be tied into existing boilers. Id. at 89:11-13. This process required Grant and Howe to remove the insulation from the boiler, go inside, cut a hole in the boiler, and weld a flange to the side. Id. at 89:13-18. Grant identified Cleaver-Brooks and Riley-Stoker as two of the boiler manufacturers. Id. at 89:19-90:1. He testified that they used a variety of tools to remove the insulation on the boilers including hatchets and hammers. Id. at 90:10-17. Removing the insulation created dust which they breathed, and which got on their clothing. Id. at 90:18-91:6. The piping was reinsulated by an outside contractor. Id. at 95:14-96:1. Grant testified that while they were not insulating the piping, they would be working in close proximity to the insulators who were installing insulation. Id. at 96:2-17. He stated that insulating the pipes and ductwork created a dusty work area. Id. at 96:18-97:6. The boilers also had to be reinsulated. Id. at 97:12-14. Other outside contractors reinsulated the boilers, but Grant and Howe worked in close proximity to the insulators. Id. at 97:17-98:8. The re-insulation of the boilers created dust which Grant and Howe breathed. Id. at 98:9-23.

**II. Cleaver-Brooks admits that it sold and shipped asbestos containing boilers to Bowater and are responsible for the insulation used on its boiler.**

Cleaver-Brooks admits that it sold and shipped an asbestos-containing boiler to Bowater in 1957. Ex. 36, Deposition of John Tornetta, 2/2/18, at 42:18-25. Tornetta confirmed that when the boiler was shipped, it had asbestos-containing components. Id. at 43:6-21. Sales records produced by Cleaver-Brooks shortly before the deposition revealed that Cleaver-Brooks shipped parts to Bowater associated with the Cleaver-Brooks boilers on site in the 1960s. Id. at 48:4-10. The boilers specifications required insulation. Id. at 48:19-49:1. Tornetta agreed that there was nothing in Cleaver-Brooks' records that would tell him where the boiler was physically located at

Bowater. Id. at 53:7-12.

In previous cases, Cleaver Brooks has admitted that it produced boilers that contained asbestos materials. *See Ex. 37*, Answers of Cleaver-Brooks to Plaintiff's Master Set of Interrogatories, May 6, 2009, at 9-10. In fact, the equipment that Cleaver-Brooks manufactured contained a variety of asbestos materials, including asbestos gaskets, asbestos rope, and asbestos cement. Cleaver-Brooks Operation, Service and Parts Manual, July 1976, excerpts attached hereto as *Ex. 38*, at 7:11-7:13, 8:2. Cleaver-Brooks equipment was also insulated with asbestos insulation materials. Cleaver-Brooks Refractory and Insulation Specifications, attached hereto as *Ex. 39*. Cleaver-Brooks even supplied raw asbestos fiber to be mixed with water and applied to the boiler. General Installation Instructions, attached hereto as *Ex. 40*, at p.2 ("After the brickwork has been installed in accordance with the drawings and instructions given elsewhere in this manual, openings must be sealed with bulk asbestos fibre, mixed with water to a plastic consistency. **A sufficient quantity of dry fibre is furnished with each unit.**") (emphasis added).

As set forth above, the equipment that Cleaver-Brooks manufactured contained a variety of asbestos materials, including asbestos insulation, asbestos gaskets, asbestos rope, and asbestos cement. Cleaver-Brooks Operation, Service and Parts Manual, *Ex. 38*, at 7:11-7:13, 8:2.

Cleaver-Brooks has also admitted that it was aware that asbestos materials contained in its equipment would need to be removed and replaced. In fact, as stated in interrogatory responses, "Cleaver Brooks did anticipate that its boilers would have to be inspected, serviced or maintained periodically. To the extent that some of its boilers contained component parts which, in turn, may have contained asbestos, it did anticipate that such component parts may need to be removed or replaced." Cleaver-Brooks Supplemental Answers to Plaintiffs' Second Set of Interrogatories, May 20, 1998, *Ex. 41*, at Response 24. Cleaver-Brooks provided asbestos containing replacement

materials, as demonstrated by its replacement parts chapter of its operation manual which states, “[i]t is recommended that your local Cleaver-Brooks representative be contacted for prompt supply of replacement parts.” Cleaver-Brooks Operation, Service and Parts Manual, Ex. 38, at 8:1-8:2. Thus, it was not only foreseeable that asbestos materials would be used with Cleaver-Brooks’ equipment, it was actually intended.

**III. Wayne Howe’s mesothelioma was caused by exposure to asbestos from Cleaver-Brooks boilers.**

Plaintiffs’ medical expert, Dr. Arthur Frank, confirmed that Wayne Howe has two asbestos-related diseases—asbestosis and malignant pleural mesothelioma. Ex. 12, Frank Report, 12/4/15, at 2. Based on Dr. Frank’s review of Wayne Howe’s medical records, testimony, and work history, Dr. Frank concluded that Howe’s “cumulative exposures” to asbestos “from any and all products, containing any and all fiber types, would have led to his developing” mesothelioma. Id.

**ARGUMENT AND AUTHORITIES**

**I. Cleaver-Brooks has failed to meet its summary judgment burden.**

“Summary judgment is a drastic remedy which should be cautiously invoked so that a litigant is not improperly deprived of a trial on disputed factual issues.” *Madison ex rel. Bryant v. Babcock Center, Inc.*, 371 S.C. 123, 134, 638 S.E.2d 650, 655 (2006); *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991). Under South Carolina Rule of Civil Procedure 56, summary judgment is only appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRCPP; *Cafe Assocs. Ltd. v. Gerngross*, 305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991). The moving party has the burden of clearly establishing the absence of a genuine issue of material fact. *Singleton v. Sherer*, 377 S.C. 185, 659 S.E.2d 196 (Ct. App. 2008). If and when the party moving for summary

judgment meets its initial burden of showing an absence of evidentiary support for the plaintiff's case, only then is the plaintiff required to come forward with specific facts showing there is a genuine issue for trial. *See Regions Bank v. Schmauch*, 354 S.C. 648, 660, 582 S.E.2d 432, 438 (Ct.App.2003).

In determining whether a genuine question of fact exists, the court must view the evidence and all inferences which can be reasonably drawn from the evidence in the light most favorable to the nonmoving party. *Faile v. S. C. Dep't of Juvenile Justice*, 350 S.C. 315, 324, 566 S.E.2d 536, 540 (2002). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *Baugus v. Wessinger*, 303 S.C. 412, 401 S.E.2d 169 (1991). Even when there is no dispute as to the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. *Koester v. Carolina Rental Ctr.*, 313 S.C. 490, 443 S.E.2d 392 (1994). Summary judgment should be denied unless reasonable minds cannot differ on plain, palpable, and indisputable facts. *See Ellis v. Davidson*, 358 S.C. 509, 518, 595 S.E.2d 817, 822 (Ct. App. 2004). Here, Cleaver-Brooks has failed to meet its high burden of showing the absence of a genuine issue of material fact for trial.

**II. Plaintiffs' evidence raises genuine issues of material fact regarding the causation of Wayne Howe's mesothelioma from exposure to asbestos from Cleaver-Brooks' boilers.**

A plaintiff in an asbestos case may defeat summary judgment with evidence of "actionable exposure" to a defendant's asbestos product. *Henderson v. Allied Signal, Inc.*, 373 S.C. 179, 185, 644 S.E.2d 724, 727 (2007). To determine whether exposure is actionable, South Carolina courts apply the "frequency, regularity and proximity" factors set forth in *Lohrmann v. Pittsburgh Corning Corp.*, 782 F.2d 1156 (4th Cir. 1986). *Id.* Therefore, "[t]o support a reasonable inference of substantial causation from circumstantial evidence, there must be evidence of exposure to a

specific product on a regular basis over some extended period of time in proximity to where the plaintiff actually worked.” *Id.* (quoting *Lohrmann*, 782 F.2d at 1162).

The *Lohrmann* decision described its test as “a *de minimis* rule” in that the plaintiff merely has to “prove more than a casual or minimum contact with the product.” *Lohrmann*, 782 F.2d at 1162. Moreover, the disease at issue in *Lohrmann* was asbestosis, not mesothelioma. The court noted that frequency, regularity, and proximity are evaluated with regard to the disease at issue, which in that case turned on “the unusual nature of the asbestosis disease process, which can take years of exposure to produce the disease.” 782 F.2d at 1162; *see also id.* at 1163 (“The ‘frequency, regularity and proximity test’ used by the district court is an application of [circumstantial evidence principles] in an asbestosis setting.”).

Many courts have found that the *Lohrmann* factors should be applied less strictly in mesothelioma cases given the scientific evidence that brief or low-level exposures can cause mesothelioma. *See Bobo v. Tennessee Valley Auth.*, 855 F.3d 1294, 1309 (11th Cir. 2017); *Tragarz v. Keene Corp.*, 980 F.2d 411, 420 (7th Cir. 1992); *Startley v. Welco Mfg. Co.*, 78 N.E.3d 639, 647 (Ill. App. 2017); *Georgia-Pacific Corp. v. Pranksy*, 800 A.2d 722, 725-26 (Md. App. 2002); *Purcell v. Asbestos Corp., Ltd.*, 959 P.2d 89, 94 (Or. App. 1998); *Kurak v. A.P. Green Refractories Co.*, 689 A.2d 757, 765-66 (N.J. App. 1997); *Linster v. Allied Signal*, 21 A.3d 220, 224, 228-29 (Pa. Super. 2011). For example, the Seventh Circuit has explained that the “the frequency and regularity prongs become less cumbersome when dealing with cases involving diseases, like mesothelioma, which can develop after only minor exposures to asbestos fibers.” *Tragarz*, 980 F.2d at 420. A New Jersey state court has similarly explained that the “amount of evidence needed to establish the regularity and frequency of exposure will differ from case to case. . . . This case would have been easier had plaintiff been able to testify that he often found himself covered with

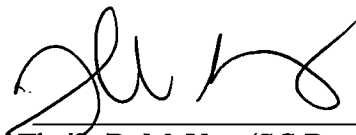
dust. But that is not a legal requirement, at least where mesothelioma is concerned.” *Kurak*, 689 A.2d at 765-66; *see also Purcel*, 959 P.2d at 94 (noting that “the jurisdictions that follow the ‘frequency, regularity, and proximity’ test apply it less rigidly when dealing with mesothelioma, because it can be caused by very minor exposures”).

The *Henderson* exposure standard is met here. Uncontroverted testimony from Wayne Howe and Gilbert Small establish that the boilers on site at Bowater during Wayne Howe’s early tenure there were located in the powerhouse and that Wayne Howe worked on all of the equipment in the powerhouse, including the boilers. Howe testified that while working on these boilers and the piping associated with these boilers, he had to remove insulation. The process of removal created dust which Howe inhaled. Cleaver-Brooks has admitted that its boilers, like the boiler shipped to Bowater in 1957, had asbestos-containing components. Additionally, Cleaver-Brooks confirmed that the specifications for the boiler located at Bowater called for the boiler to be insulated. Also, in contrast to Cleaver-Brooks’ argument, the Boiler Inspection report attached to its motion for summary judgment does not demonstrate that there are no genuine issues of material fact left for trial. Plaintiffs submit that the exhibit, in fact, supports Wayne Howe and Gilbert Small’s testimony as the exhibit shows that during the time that Cleaver-Brooks insists that it shipped its boiler to Bowater, the only boilers at Bowater were located in the powerhouse. Howe’s exposure to asbestos attributable to Cleaver-Brooks was significant and could be found by the jury to be a substantial factor in causing his mesothelioma. This motion must be denied.

### CONCLUSION

For the foregoing reasons, Plaintiffs respectfully ask the Court to deny Defendant Cleaver-Brooks’ motion for summary judgment.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFFS

February 21, 2018

Columbia, South Carolina.



**PLAINTIFFS' MOTION FOR SANCTIONS**

Plaintiffs in the above-captioned cases hereby file this supplement in opposition to Cleaver Brooks, Inc.'s ("Cleaver Brooks") motions for summary judgment and would respectfully show the Court that the motions should be denied. Plaintiffs also request that this Court sanction Cleaver Brooks for its failure to comply with this Court's Order regarding the production of documents and its repeated failure to comply with its discovery obligations.

In its motions for summary judgment, Cleaver Brooks contended that Plaintiffs had failed to gather sufficient evidence to demonstrate that James Calvin Sizemore, Wayne Howe, and Charlotte Smith had been exposed to an asbestos-containing product attributable to Cleaver Brooks. As mentioned in Plaintiffs' initial responses, when Plaintiffs took the initial deposition of Cleaver Brooks on February 1, 2018, the corporate representative was unprepared to discuss any facility where James Sizemore, Wayne Howe, or Lewis Childers had worked except Bowater Paper Mill in Rock Hill, South Carolina, despite the fact that Plaintiffs had provided Cleaver Brooks with a comprehensive list of worksites. This failure required Plaintiffs to go in search of witnesses and documents to support their claim that Wayne Howe worked on a Cleaver Brooks boiler located in the power house at Bowater. Plaintiffs were not given a second opportunity to depose Cleaver Brooks as to the presence of its products at the remaining identified worksites until March 6, 2018, well after the deadline set by this Court to respond to the motions for summary judgment filed by the remaining defendants in this matter. During the March 6th deposition, Plaintiffs learned additional information to support their position that Cleaver Brooks is not entitled to summary judgment and learned the various aspects of Cleaver Brooks' failure to comply with its discovery obligations. Plaintiffs addresses each of these issues herein.

**A. Cleaver Brooks specified the use of asbestos-containing component parts with its boilers.**

**1. James Sizemore**

During its deposition on March 6, 2018, via corporate representative John Tornetta, Cleaver Brooks admitted that the following component parts of its boilers contained asbestos: gasket rope seal material, Vee Block Mix, tadpole gaskets, refractory, and insulation. **Ex. A**, 30(b)(6) Deposition of Cleaver Brooks (John Tornetta), Vol. II, 3/6/18, at 191:24-193:4. Documents reflecting these components were not produced to Plaintiff for multiple worksites that Plaintiff has identified as James Sizemore's former worksite. Each of the boilers that Cleaver Brooks actually searched for and produced records for specified asbestos gaskets or tape, asbestos cement, asbestos insulation, and, in some cases, asbestos refractory. *Id.* at 262:5-266:4. By way of example, Cleaver Brooks sold and shipped at least one boiler to Viking Distillery in 1974. *Id.* at 197:4-20. The boiler was over 10 feet tall and over 16 feet long. *Id.* at 198:7-16. Cleaver Brooks also sold and shipped a firetube boiler to the Domino Sugar Plant. *Id.* at 258:19-6. The boiler located at Domino Sugar specific the use of asbestos tape, asbestos furnace cement, and asbestos rope. *Id.* 259:12-260:2. Cleaver Brooks also specified and supplied the boiler with asbestos gaskets, asbestos insulation, and possibly asbestos refractory. *Id.* at 264:8- 265:25. Cleaver Brooks admitted that the boilers at Bowater, the Domino Sugar Plant, and Viking Distillery, regardless of whether the boiler was made in 1952 or 1973, contained asbestos components. *Id.* at 278:10-18. Mr. Torneta that he could not recall seeing a boiler manufactured by Cleaver Brooks prior to 1970 that did not contain asbestos-containing components. *Id.* at 281:1-21.

As to Avondale Shipyard, Cleaver Brooks supplied a 15-pound steam boiler in 1963. Mr. Tornetta testified that it would not surprise him if this boiler had asbestos-containing components, but he could not be sure because he had not reviewed the engineering drawings for this boiler. *Id.*

at 282:15-283:11. He stated that he expected that those engineering drawings, although they had not been produced to Plaintiff, existed. *Id.* at 283:12-14.

## **2. Wayne Howe**

Throughout the discovery phase in this matter, Cleaver Brooks has maintained that, if it had a boiler located at Bowater, it was not located in the power house. This repeated representation from Cleaver Brooks prompted Plaintiffs to go in search of additional evidence to determine the location of the Cleaver Brooks boiler at Bowater. However, during its deposition on March 6, 2018, Cleaver Brooks finally admitted that it had no “definitive way to determine” where the Cleaver Brooks boiler was located at Bowater. **Ex. A**, 30(b)(6) Deposition of Cleaver Brooks (John Tornetta), Vol. II, 3/6/18, at 228:4-18. Not only could Cleaver Brooks not testify as to where the boiler at Bowater was located, Mr. Tornetta confirmed that the Cleaver Brooks’ boiler located at Bowater contained asbestos-containing cement, asbestos-containing gasket material, and asbestos-containing rope. *Id.* at 246:15-22. Cleaver Brooks specified the use of 5 pounds of asbestos cement, and approximately 3 feet of asbestos rope with this boiler. *Id.* at 231:9-23. The rear door of the Cleaver Brooks boiler at Bowater utilized two pieces of asbestos board. *Id.* at 236:4-9. Cleaver Brooks also specified that use of 60 pounds of asbestos-containing Vee Block Mix at the boiler’s rear door. *Id.* at 236:10-12. The rear door also used an additional pound of asbestos-containing furnace cement and an additional 9 feet of asbestos rope. *Id.* at 237:25-238:5.

## **3. Charlotte Smith**

The worksites at issue in the Charlotte Smith matter are those where her former husband, Lewis Childers worked. During the March 6<sup>th</sup> deposition, Cleaver Brooks was shown the public record demonstrating that it had supplied three boilers to Duke’s Cliffside facility—one in 1969, one in 1995, and a Deaerating tank built in 2010. *Id.* at 219:1-14. Mr. Tornetta testified that Cleaver

Brooks had found records for the latter boilers but had been unable to locate records for the boiler built in 1969. *Id.* at 219:20-220:15. The state records also showed that Cleaver Brooks built and shipped a fireturbe boiler to Duke's McGuire facility in 1975, but Cleaver Brooks had been unable to find any documents related to that boiler. *Id.* at 220:22-221:3. Mr. Tornetta admitted that Cleaver Brooks had no information to contradict the state record information which shows Cleaver Brooks supplying boilers to those locations. *Id.* at 221:4-9.

When asked why the state records would reflect the presence of a Cleaver Brooks boiler at a location and Cleaver Brooks not have any records reflecting the sale of the boiler to the location, Mr. Tornetta testified that Cleaver Brooks could have errors in its records or the state boiler inspector could have made an error. *Id.* at 223:19-224:17. Even though Cleaver Brooks found records relating to the sale of the later boilers, those records were not produced to Plaintiff. *Id.* at 226:13-18.

**B. Plaintiffs are entitled to sanction for Cleaver Brooks' discovery abuse and failure to comply with this Court's Discovery Order.**

During a discovery hearing before this Court on January 24, 2018, Cleaver Brooks asserted that it did not have boilers in any location at issue in these cases other than the Bowater Paper Mill in Catawba, South Carolina. *See Ex. B*, SC Asbestos Hearing Transcript, March Block Discovery Motions Hearing, 1/24/2018, at 58:1-23. Cleaver Brooks continued to mislead this Court as to the locations where its boilers were located, relevant to Charlotte Smith's exposure to asbestos, through its motion for summary judgment in which Cleaver Brooks stated that "[t]he Bowater Paper Mill is the only job site of [Lewis] Childers for which Cleaver Brooks has identified records of chipping a boiler." *See* Defendant Cleaver Brooks, Inc.'s Motion for Summary Judgment, pg. 3. As to James Sizemore, this assertion from Cleaver Brooks was in contrast to its discovery responses in the Sizemore matter where it admitted that it had boilers at the following sites where

James Sizemore worked:

<b>Site</b>
<b>Arabi Packing Co./Domino Sugar Plant New Orleans, LA</b>
<b>Avondale Shipyard Avondale, LA</b>
<b>Resolute FP US, Inc. (f/k/a Bowater Paper Mill) Catawba, SC</b>
<b>Cargill Inc. Memphis, TN</b>
<b>Daniel Construction Co. Greenville, SC</b>
<b>South Carolina Electric and Gas Company Charleston, SC</b>
<b>Viking Distillers Albany, GA</b>

**Ex. C**, See *Cleaver Brooks, Inc. 's Answers and Objections to Plaintiffs' Standard Interrogatories and Requests for Production of Documents*, pg. 6, served on March 2, 2018. At the deposition of Cleaver Brooks' corporate representative on March 6, 2018, the representative confirmed that Cleaver Brooks was aware, prior to a partial deposition conducted on February 2, 2018, that it had boilers present at more than just the Bowater location in the Sizemore matter.

Through other discovery, Plaintiffs have learned that Cleaver Brooks sold and shipped boilers to more locations than just the Bowater Paper Mill. As to Lewis Childers' worksites, he testified that he worked at Duke Cliffside steam station and Duke's McGuire Nuclear station. Documents reveal that there is a fire tube boiler, manufactured by Cleaver Brooks, at Cliffside, that was built in 1969. See **Ex. D**, Boiler Records for Cliffside Steam Station. Lewis Childers testified that he worked on boilers at Cliffside during the early 1980s. Documents also reveal that Cleaver Brooks sold and shipped a fire tube boiler to Duke's McGuire facility, which was also present while Lewis Childers worked at that location. See **Ex. E**, Boiler Records for McGuire

Nuclear Station. Cleaver Brooks asserts that it could not locate these records. However, this assertion occurred after it claimed that it only had a boiler located at Bowater during the January 24<sup>th</sup> hearing. During its deposition on March 6, 2018, Cleaver Brooks could not dispute these records that indicate Cleaver Brooks boilers were located at these Duke Power facilities.

Cleaver Brooks additionally asserted at the January 24<sup>th</sup> hearing that Plaintiffs would have any additional documents that were responsive to the topics identified in Plaintiff's 30(b)(6) notice the afternoon of January 24, 2018 "as soon as [counsel gets] back to [his] office following this hearing." *Id.* at 59:1-3. Despite this representation to this Court, Cleaver Brooks failed and has continued to fail to produce requested documents. By way of example, Cleaver Brooks has failed to produce documents relevant to the products it had at Duke Power's Cliffside and McGuire facilities even though these facilities were clearly identified by Lewis Childers in his deposition and by Plaintiffs in their various discovery requests. Additionally, Cleaver Brooks has failed to produce documents relevant to the presence of its boilers at South Carolina Electric & Gas, Cargill, Avondale, and Daniel, despite acknowledging in its discovery responses that it had boilers at these locations. In fact, Cleaver Brooks has acknowledged, through counsel, the testimony from James Sizemore, Wayne Howe, and Lewis Childers that they worked at the sites identified in Plaintiffs' discovery requests and, for some, Cleaver Brooks had just not pulled and produced the requested documents. See **Ex. F**, Email Correspondence between Elizabeth O'Neill and Jessica Dean. As a result of Cleaver Brooks' repeated and deliberate failure to produce these documents, Plaintiffs have not received documents critical to the presentation of their claims against Cleaver Brooks.

It is trial by ambush to consider these documents less than a week before trial begins and when there is no functional time to get these documents to Plaintiffs' fact witnesses or experts to consider. This is not a situation where a few documents were produced after the deadline.

Thousands of pages of documents were produced on multiple occasions after the deadline for multiple worksites which Plaintiffs clearly identified for Cleaver Brooks. As to certain worksites, Cleaver Brooks has still not produced the documents that Plaintiffs have requested in relation to those worksites. Cleaver Brooks' intentional and deliberate failure to produce relevant documents hampers Plaintiffs' ability to meaningfully prepare for trial. It has done so without explanation or apology and in blatant disregard of this Court's Discovery Order.

During the January 24th hearing, this Court also ordered Cleaver Brooks to "produce a corporate representative . . . prepared to discuss what was known or reasonably available to the company on February 2, 2018." See **Ex. G**, Order Regarding Cleaver Brooks, Inc. Discovery Motions, signed 2/23/18. Despite this directive from the Court, Cleaver Brooks first offered a deponent ready to discuss this matter on February 20th or 21st, well after the deadline established by the Court's Order and just hours before a response to Cleaver Brooks' motion for summary judgment was due. Plaintiffs question the genuineness of this offer because, by February 20th, Cleaver Brooks had not produced all of the requested documents. In further defiance of the Court's Order, despite the warning that sanctions would follow for the failure to comply with the representations made during the hearing, Cleaver Brooks offered March 5th or 6th, less than a week before the start of trial, as its first available date for the deposition of its corporate representative. See **Ex. F**, Email Correspondence between Elizabeth O'Neill and Jessica Dean.

On March 6, 2018, after the deadline established by this Court, Cleaver Brooks produced its corporate representative for a complete deposition. John Tornetta testified that he did not search Cleaver Brooks records for any Sizemore worksite other than Bowater. **Ex. A**, at 173:11-22. As to why documents were not produced related to other worksites, Mr. Tornetta testified that he does not get involved unless he's asked to "search something." *Id.* at 175:10-25. If asked to search, "I

search. If I'm asked to produce some drawings, I produce those drawings to our attorneys." *Id.* at 175:25-176:2. He confirmed that he could not conclusively state that prior to his deposition on February 1<sup>st</sup> or 2<sup>nd</sup> of 2018, Cleaver Brooks had searched all of the records pertaining to all of the requested job sites. *Id.* at 179:11-16.

Mr. Tornetta acknowledged that Cleaver Brooks, as of the day of the deposition, had not produced any of the engineering drawings related to the Cleaver Brooks boilers at Avondale Shipyard. *Id.* at 183:2-10. Cleaver Brooks had also not produced similar drawing relevant to its boilers at the Cargill facility. *Id.* at 183:23-184:7. When asked why he had not pulled those documents, Mr. Tornetta responded that he had not been asked to do so. *Id.* at 184:9-17. Mr. Tornetta also admitted that Cleaver Brooks had not produced certain records relevant to its boilers located at the Daniel Construction facility where Mr. Sizemore had worked. If he conducted the search, according to Mr. Tornetta, he "would expect to find the drawings related to these boilers." *Id.* at 191:1-7. To date, Cleaver Brooks has not produced the documents identified by Mr. Tornetta, the engineering drawings, during his deposition related to Cleaver Brooks' boilers at Daniel Construction, Cargill, Avondale Shipyard, and South Carolina Electric & Gas. Finally, Mr. Tornetta confirmed that if the statement was made that the only job site of James Sizemore that contained a Cleaver Brooks' boiler was the Bowater Paper Mill, that statement would be factually incorrect. *Id.* at 206:11-22. Furthermore, given Mr. Tornetta's testimony that he searched for all relevant sites prior to his February 1<sup>st</sup> deposition, that statement would not have been true when Cleaver Brooks represented to this Court that Bowater was the only location where Cleaver Brooks had a boiler. *Id.* at 206:23-12.

Plaintiffs are entitled to sanctions as a result of Cleaver Brooks' failure to comply with this Court's Order and its repeated failure to comply with its discovery obligations. South Carolina

Rule of Civil Procedure 26(b)(1) provides that a party is entitled to discovery on

any matter, not privileged, which is relevant to the subject matter involved in the pending action whether it relates to a claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

*Id.*

Rule 34, SCRCPP provides that a party shall produce documents within their “possession, custody or control.” As the language of Rule 34 makes clear and as the courts have confirmed, a request for production need not be confined to documents or other items in a party’s possession, but instead may properly extend to items that are in that party’s “control.” Rule 34(a)(1), SCRCPP. In interpreting the identical provision of the Federal Rules, the Sixth circuit and other courts have held that documents are deemed to be within the “control” of a party if it “has the legal right to obtain the documents on demand.” *In re Bankers Trust Co.*, 61 F.3d 465-69 (6th Cir. 1995); *Mercy Catholic Med. Cntr. v. Thompson*, 380 F.3d 142, 160 (3d Cir. 2004); *Searock v. Stripling*, 736 F.2d 650, 653 (11th Cir. 1984).

Pursuant to Rule 37(b)(2)(C), SCRCPP, when a party fails to obey an order to provide or permit discovery, the court may “make such orders in regard to the failure as are just,” including an order dismissing the action or proceeding, or any part thereof. *Temple v. Tec-Fab, Inc.*, 370 S.C. 383, 390, 635 S.E.2d 541, 544 (Ct. App. 2006). “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, or a resulting verdict must be reversed. *Id.* While “[t]he imposition of sanctions is generally entrusted to the sound discretion of the Circuit Court, ... whatever sanction is imposed should serve to protect the rights of discovery provided by the Rules.” *Id.* Without adequate sanctions, discovery procedures would be ineffectual. *Id.* As a result,

overleniency 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), a party failed to disclose the existence of a videotape of the plaintiff in a personal injury case which was relevant to the issue of damages. 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).

Cleaver Brooks’ failure to cooperate with the discovery process has and continues to irrevocably prejudice Plaintiffs’ ability to present their claims against Cleaver Brooks to the jury. Documents regarding the presence of Cleaver Brooks boilers at locations identified by Plaintiffs as former worksites of Lewis Childers and James Sizemore have not been produced to Plaintiffs despite Plaintiffs’ request and in spite of the representations made by Cleaver Brooks at the January 24, 2018 hearing.

The harm from the misrepresentations and late discovery are clear. Plaintiffs have been told by counsel from Cleaver Brooks that the boiler was not located in the power house at Bowater and that it had no boilers at the other identified worksites. Plaintiffs then searched late produced

records and verified that there is not proof of this claim. Plaintiffs then deposed Cleaver Brooks' corporate representative who does not support counsel's claims. As counsel zealously advocating for the client, Plaintiffs have spoken to co-workers of Lewis Childers, Wayne Howe, and James Sizemore, including those we had not intend to call at trial to refute these speculative claims. This type of last minute work and the need to find new witnesses, within a compressed time is not reasonable to thoroughly explore the claims against Cleaver Brooks and is unfair to this process and created by the inaction of Cleaver Brooks. This is not the first time this has happened, even in a South Carolina Court, with this defendant and Plaintiffs' counsel. In *Bumgardner v. ABB, Inc., et al.*, C/A. No. 10-CP-29-855, South Carolina Court of Common Pleas of Lancaster County, Cleaver Brooks refused to produce any discovery for any location where Mr. Bumgardner testified to working on boilers until a co-worker identified them by name. Due to that failure, discovery was not produced until weeks before trial. When produced, Cleaver Brooks only produced some documents. When deposed, Plaintiffs' counsel learned that Cleaver Brooks provided all records showing the non-asbestos insulation and specifically withheld the records (for the same boilers) showing asbestos insulation. See **Ex. H**, Videotape Deposition of Cleaver-Brooks 30(b)(6) (John Tornetta), taken in *Bumgardner v. ABB, Inc., et al.*, C/A. No. 10-CP-29-855, South Carolina Court of Common Pleas of Lancaster County, 1/20/11, at 40:10-45:7; 189:13-194:1. This resulted in the Honorable Judge Hill ordering a last-minute deposition of Cleaver Brooks within 48 hours of the start of trial. **Ex. I**, Order on Plaintiffs' Motion to Compel the Corporate Representative Deposition of Cleaver Brooks, Inc., *Bumgardner v. ABB, Inc., et al.*, C/A No. 0-CP-29-855, South Carolina Court of Common Pleas of Lancaster County, 1/19/11.

Further, in direct defiance of this Court's February 24, 2018 Order, Cleaver Brooks did not produce a corporate representative for deposition until March 6, 2018, less than one week before

the beginning of trial in this matter and days after the deadline established by the Court. As this Court promised in its Order, sanctions should be levied against Cleaver Brooks for its failure to comply with the representations it made to this Court regarding the production of documents requested by Plaintiffs and the production of a prepared corporate representative for deposition prior to the stated deadline.

Cleaver Brooks' abuse of discovery in this matter is so blatant and deliberate that it warrants the imposition of significant sanctions including, but not limited to, concluding that the following facts are established such that Plaintiffs are not required to present evidence on these facts:

Lewis Childers was repeatedly exposed to asbestos-containing materials from Cleaver Brooks boilers from gaskets, packing, insulation, and asbestos at Bowater in the power house, at Duke McGuire, and at Duke Cliffside; and an award of attorneys' fees to Plaintiff for the expenses incurred in pursuing this motion.

James Sizemore was repeatedly exposed to asbestos attributable to Cleaver Brooks boilers from gaskets, insulation, located at Bowater in the power house, Domino Sugar, Avondale Shipyard, Cargill, Daniel Construction, South Carolina Electric & Gas, and Viking Distillers; and an award of attorneys' fees to Plaintiff for the expenses incurred in pursuing this motion.

Wayne Howe was exposed to asbestos attributable to Cleaver Brooks from asbestos-containing component parts, including gaskets, insulation and Vee Block mix, found on the Cleaver Brooks' boiler at Bowater located in the power house. Plaintiffs also request an award of attorneys' fees to Plaintiffs for the expenses incurred in pursuing this motion.

### CONCLUSION

For the reasons set forth herein and in Plaintiffs' initial Responses in Opposition to Defendant Cleaver Brooks' motions for summary judgment, Plaintiffs respectfully requests that Cleaver Brooks' motions for summary judgment be denied and that this Court enter an Order levying sanctions against Cleaver Brooks as requested herein.

Respectfully submitted,

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March 8, 2018  
Dallas, Texas.

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was e-filed with the court's e-filing system, and thereby served electronically on all counsel of record, this 8th day of March, 2018.

/s/ Jonathan M. Holder

Jonathan M. Holder  
Attorney for Plaintiffs

Exhibit H to Plaintiffs' Supplemental  
Response in Opposition to Cleaver-Brooks's  
Motion for Summary Judgment

Deposition of John Tornetta from  
*Bumgardner v. ABB, Inc.* (Jan. 20, 2011)



1 or from a boiler today from Cleaver-Brooks, I can be  
 2 assured that that is a non-asbestos type of  
 3 insulation?  
 4 A. Correct.  
 5 Q. And Cleaver-Brooks made sure that in using  
 6 their parts number to have that consistency both  
 7 because of the forms and so that there wouldn't be  
 8 confusion over --  
 9 A. Yeah. It certainly wasn't related to  
 10 whether it was or wasn't asbestos, but the material  
 11 itself.  
 12 Q. Right. Right. That's all I meant to imply.  
 13 A. Right.  
 14 Q. This subsequent search that you did on the  
 15 boilers that are referenced in Row D on Exhibit 31,  
 16 how long did that take you?  
 17 A. Well, I didn't actually keep track of the  
 18 hours, but I would say my waking hours on Monday,  
 19 Tuesday and Wednesday morning, that's what it took.  
 20 Q. Okay.  
 21 A. Not all of them, but a good portion.  
 22 Q. You were working a long day on Monday and  
 23 Tuesday and got --  
 24 A. Yes. I took stuff home to do it and I  
 25 worked at home.

1 search?  
 2 A. They were all on the several different  
 3 microfiche sheets.  
 4 Q. I got the impression that was the boiler  
 5 file, for lack of a better word, to give you specific  
 6 information about service and work done in relation  
 7 to that.  
 8 A. I would call it the commercial records,  
 9 but --  
 10 Q. Okay. And that the commercial records might  
 11 extend on to more than one microfiche but they're  
 12 kept together?  
 13 A. By unit number, yes.  
 14 Q. Okay. Now, during the original documents  
 15 that I got before I got Exhibit 22, portions of that  
 16 have been pulled out and given to me. Do you know  
 17 why I would get parts of them and not others?  
 18 MR. THOENSEN: Object to the form.  
 19 BY MS. DEAN:  
 20 A. We were looking to provide information  
 21 showing the boiler that shipped, the date it shipped,  
 22 and then the information on the external insulation.  
 23 Q. Before last week, had you looked through  
 24 that file, other than the documents that you had  
 25 pulled out for Exhibit 2, and noticed, for instance,

1 Q. And then you also worked on Wednesday  
 2 morning before you gave the documents to  
 3 Cleaver-Brooks lawyers around 10?  
 4 A. Yes.  
 5 Q. Okay. Did anyone help you with that search?  
 6 A. No.  
 7 Q. And I know from reading past depositions,  
 8 and I apologize I don't know Lynn's last name, but  
 9 Lynn sometimes helps you with some of the more  
 10 administrative stuff. Did you have her support at  
 11 all in any of this?  
 12 A. No.  
 13 Q. Okay.  
 14 A. And it's Linda.  
 15 Q. Linda?  
 16 A. Yes.  
 17 Q. Tell her I'm sorry.  
 18 A. That's okay.  
 19 Q. But I had it -- I have it straight in my  
 20 head that she is Lynn.  
 21 The documents that I have marked as  
 22 Exhibit 2 -- 22, excuse me -- have conversion and a  
 23 series number and conversion again.  
 24 A. Yes.  
 25 Q. Were those documents all together in your

1 you know, several dozen pounds of asbestos insulation  
 2 were being supplied during service of one of those  
 3 boilers?  
 4 MR. THOENSEN: Object to the form.  
 5 BY MS. DEAN:  
 6 A. I didn't see that. I didn't look through  
 7 each one of those files as I pulled it. I can --  
 8 I -- the documents I am looking for are fairly  
 9 distinctive on microfilm so I can go right to it.  
 10 Q. And how do you get a feel for what documents  
 11 you're supposed to be looking for?  
 12 MR. THOENSEN: Object to the form.  
 13 BY MS. DEAN:  
 14 A. I was looking to provide the information on  
 15 shipment, so I know I am going to have a purchase  
 16 order and an invoice, and if there is a dimension  
 17 diagram in there to show the overall size of the  
 18 boiler, basically what it looks like, I would have  
 19 provide that too.  
 20 Q. But, I mean, we have a file here that's less  
 21 than 200 pages in an asbestos case where a person is  
 22 claiming he is dying of an asbestos disease, and you  
 23 were never given any kind of direction to pull out  
 24 documents in that relatively small file that showed  
 25 asbestos work was being done on those boilers?

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1 MR. THOENSEN: Object to be form.  
 2 If you're asking him what his lawyers asked him  
 3 to do, I am going to instruct him not to answer  
 4 that question.  
 5 BY MS. DEAN:  
 6 Q. And what I mean about that question is, just  
 7 in the parameters of what you were looking for, did  
 8 you not think that those documents relating to  
 9 asbestos components being worked on on those boilers  
 10 were needed?  
 11 MR. THOENSEN: Object to the form.  
 12 BY MS. DEAN:  
 13 A. I was strictly looking at when was the  
 14 boiler shipped, was it shipped to a particular place,  
 15 searched for the site, or for the location, and when  
 16 the boiler shipped and what boiler shipped. That's  
 17 what I was looking for.  
 18 Q. Were you shown the Notice of the deposition?  
 19 And I will represent to you we have a Notice attached  
 20 as Exhibit 1, which has some differences in time and  
 21 location, but had the exact same topics listed out.  
 22 Were you shown that before you searched through the  
 23 approximately 180 pages that are in Exhibit 22?  
 24 A. Before I searched through this?  
 25 Q. Yeah. To see what we were asking for.

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1 A. Yes, I probably was. You know, I have seen  
 2 that Notice. I can't say exactly when. But before I  
 3 looked through and produced this, but, yes, I think  
 4 it was.  
 5 Q. Okay. Did you see the part that explicitly  
 6 asked for the asbestos content of those boilers and  
 7 listed out, including but not limited to, gasket,  
 8 insulation, rope and -- gasket, insulation and rope?  
 9 A. Well, that's what we provided for these  
 10 particular boilers.  
 11 Q. Okay. And again, when you originally  
 12 provided those documents, the information showing  
 13 that -- pounds, dozens of pounds of asbestos were  
 14 being used in the service of those boilers in the  
 15 '60s, wasn't provided?  
 16 MR. THOENSEN: Object to the form.  
 17 BY MS. DEAN:  
 18 A. I -- you're referencing something I haven't  
 19 seen, so I don't know what you're talking about.  
 20 Q. Okay. If you look to Exhibit 22 on what we  
 21 have marked as Pete 37.  
 22 A. Okay. I see it.  
 23 Q. It references there that 25 pounds of  
 24 asbestos pulp, number 450, was sold to Cleaver-Brooks  
 25 company, to be shipped to Springs Cotton Mills. Do

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1 you see that?  
 2 A. That's what it says.  
 3 Q. And if you move on to the next page, there  
 4 is a field report that's three pages, and on the last  
 5 page, that 25 pounds of asbestos is being shown as  
 6 what was used from the stock. And then there is a  
 7 description of what work was being done.  
 8 A. Yes.  
 9 Q. And if you turn to Pete 48 to 50, do you see  
 10 that in a different incident, instead of 25 pounds  
 11 there are 50 pounds of asbestos being sold to  
 12 Cleaver-Brooks for the Springs Cotton Mills site?  
 13 A. It says that, yes.  
 14 Q. And if you look to Pete 55, there is an  
 15 instance where there is 20 pounds of JM-450 asbestos  
 16 being sold to Cleaver-Brooks to be shipped to the  
 17 Springs location.  
 18 A. Yes.  
 19 Q. And if we look to Pete 73, you see 10 pounds  
 20 of asbestos pulp JM-450 being sold to Cleaver-Brooks  
 21 to be used at the Springs location.  
 22 A. Yes.  
 23 Q. And so my representation that literally  
 24 dozens of pounds of asbestos was being used in the  
 25 service of these boilers, is something that bears out

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1 when we look at Cleaver-Brooks exhibits. Right?  
 2 A. I guess the term asbestos catches me. I'm  
 3 not sure what the word asbestos, the way it's used  
 4 here, is that is pounds of asbestos. It's pounds of  
 5 a cement that contained asbestos. How much asbestos  
 6 was in that cement, I would have no idea.  
 7 Q. Okay. And it does sometimes just say  
 8 asbestos and other times it says asbestos pulp.  
 9 A. Right.  
 10 Q. Do you know if that was 99 percent asbestos,  
 11 10 percent asbestos? Have you looked at JM, the  
 12 supplier's information, to let you know that there is  
 13 more asbestos in there than anything else?  
 14 A. I have --  
 15 MR. THOENSEN: Object to the form.  
 16 BY MS. DEAN:  
 17 A. I'm sorry. I don't know. What I have is  
 18 what we provided in those parts descriptions for that  
 19 part.  
 20 Q. And that just brings me back to my original  
 21 question. Before these documents were provided me,  
 22 do you know why, when you see a notice asking for  
 23 insulating cement, why the 200 pages that is the  
 24 commercial records of these two boilers which has  
 25 several references to asbestos work being done

1 weren't produced?  
 2 MR. THOENSEN: Object to form.  
 3 BY MS. DEAN:  
 4 A. Again I was looking at the external of the  
 5 boilers, because up to that point, I believe all the  
 6 information I had was the person was related to the  
 7 outside of the boiler.  
 8 Q. Well, to be fair though, you did have  
 9 information in the Notice that you saw that came from  
 10 me --  
 11 A. Uh-huh.  
 12 Q. -- and it wasn't limited to the external of  
 13 the boilers.  
 14 A. Correct.  
 15 Q. And you never looked at Pete's testimony or  
 16 the co-workers' testimony to see what they actually  
 17 said about the work being done, whether it was inside  
 18 or outside. Right?  
 19 A. Correct.  
 20 Q. Sorry for pauses occasionally, but if I  
 21 don't take time to kind of reorganize things, in  
 22 about two hours it gets ugly. So I will still get  
 23 there.  
 24 A. I will do the same.  
 25 Q. I want to spend hopefully not too much time,

1 that you be prepared to follow that Notice?  
 2 MR. THOENSEN: Object to the form.  
 3 BY MS. DEAN:  
 4 A. In order to do that, I would have to look at  
 5 files for 140,000 boilers and all the records for  
 6 140,000 boilers.  
 7 Q. I'm optimistic that without doing that, you  
 8 will be able to answer some of those questions today  
 9 just from what is in front of me.  
 10 Are you aware that historically,  
 11 Cleaver-Brooks has sold boilers that contains  
 12 asbestos gaskets?  
 13 A. On individual boilers, yes.  
 14 Q. And some of the places where asbestos  
 15 gaskets were used were to seal the doors on  
 16 Cleaver-Brooks package boilers?  
 17 A. Is that a question? I'm sorry.  
 18 Q. Yes.  
 19 A. Okay.  
 20 Q. And I don't do that to be aggravating, but  
 21 just looking for confirmation.  
 22 A. On certain individual boilers, yes, that's  
 23 where those gaskets would be used.  
 24 Q. Okay. And what I would like to do -- and  
 25 again, I'm actually going to provide this list to

1 but some time with you, talking to you about the  
 2 different asbestos products that Cleaver-Brooks sold  
 3 with the boilers that they made and designed and sold  
 4 historically so that we can learn not only about the  
 5 boiler reflected in Row D of Exhibit 31, but have a  
 6 better understanding of at least what was available  
 7 from Cleaver-Brooks for the boilers that are also  
 8 referenced outside of D in Exhibit 31 for the boilers  
 9 that may have been at the other Springs sites and the  
 10 boilers that are reflected in Exhibit 34, Number 0.  
 11 MR. THOENSEN: Object to the form  
 12 of the question.  
 13 BY MS. DEAN:  
 14 Q. My --  
 15 MS. DEAN: I hadn't got to the  
 16 question yet, but the objection can still stand.  
 17 BY MS. DEAN:  
 18 Q. Are you prepared to talk about what was sold  
 19 historically with Cleaver-Brooks boilers?  
 20 A. No. I would have to look at the individual  
 21 boiler to see what was in it.  
 22 Q. Did you see that in the Notice that that was  
 23 something that you were asked to be prepared to do?  
 24 A. Yes.  
 25 Q. And are you aware that the Judge has ordered

1 you -- is just start creating a list of different  
 2 components that are historically sold with  
 3 Cleaver-Brooks boilers that may have had asbestos.  
 4 And you have been clear so far that it was on some of  
 5 the boilers, but without looking at many, many  
 6 documents, you can't say it's on all of them.  
 7 A. Correct.  
 8 Q. And that's all I am trying to find out.  
 9 And for the front and rear door gaskets,  
 10 that's something you have seen at least on some of  
 11 the boilers?  
 12 A. Correct.  
 13 Q. In addition, on the handhole gaskets, you  
 14 have seen documents in your searches in the past that  
 15 indicate that the handhole gaskets are  
 16 asbestos-containing?  
 17 A. Yes. If we look at the individual boilers  
 18 we looked at in this particular case, yes.  
 19 Q. And this is why I made Exhibit 31. When you  
 20 say the individual boilers in this case, you're  
 21 referencing the two boilers in Row D?  
 22 A. Correct.  
 23 Q. Okay. You have also seen asbestos was used  
 24 in the gaskets for the manhole covers?  
 25 A. Again, yes. If you look at the research I

1 states and jurisdictions in litigation efforts.  
 2 A. Correct.  
 3 Q. And you would consider yourself a loyal  
 4 employee?  
 5 A. Yes.  
 6 Q. All right. I'm assuming you're aware that  
 7 on Monday, the 24th, we're starting trial. Do you  
 8 have any intentions to be there?  
 9 A. I will do whatever our attorney asks me to  
 10 do.  
 11 Q. But today, is that a no?  
 12 A. I haven't been asked to be there Monday.  
 13 MS. DEAN: All right. Those are  
 14 all the questions I have right now. But I do  
 15 believe that I am entitled to two things that  
 16 you -- Joe and I can continue to talk about. And  
 17 it will, even if we reached agreement, likely not  
 18 lead to the need of more questions.  
 19 But they are that the Spring sites  
 20 that were not already identified, a site search  
 21 should be done. I think that they're going to  
 22 verify that at the rest of the Springs locations,  
 23 there were Cleaver-Brooks plants and that that  
 24 was ordered by the Court; and that, second, the  
 25 information that came from the site search, which

1 Ordered was a search for the Springs locations  
 2 identified by the co-workers. That's what was  
 3 produced.  
 4 MS. DEAN: No. I think it was the  
 5 locations that Pete Bumgardner indicated that he  
 6 worked, whether it be through the work history  
 7 sheet or depositions. And if -- if we need to  
 8 show you the testimony to get there, in -- in  
 9 three different spots in Pete Bumgardner's  
 10 deposition, he said that there were 13 sites for  
 11 Springs and five for J.P. Stevens and that he was  
 12 at all of them.  
 13 And so for the ones that were not  
 14 searched, I want the site search information,  
 15 just to check-mark that -- that what Mr. Roddy  
 16 said, and that is that Cleaver-Brooks were at all  
 17 of the them.  
 18 And then I want the whole site  
 19 search information, which I -- I thought just had  
 20 a unit number, which wasn't terribly helpful for  
 21 me. But if there is a model number, like  
 22 Mr. Tornetta said, it's already been researched.  
 23 I just want that presented so that I can see if I  
 24 have manuals that match.  
 25 MR. THOENSEN: Well, we'll --

1 includes the model number, be provided.  
 2 I can't imagine if I get that  
 3 information that it would lead to the need to ask  
 4 more questions. But without seeing it, I -- I  
 5 want to reserve the possibility to come back and  
 6 ask those, even if it be by phone to do so. But  
 7 other than that, I am ready to pass the witness.  
 8 MR. THOENSEN: I need to clarify  
 9 for a second. You said -- I think your words  
 10 were -- and we can confirm with the court  
 11 reporter -- site search of Spring sites not  
 12 identified. What -- what do you mean by that?  
 13 MS. DEAN: The -- the -- not  
 14 identified to Mr. Tornetta by Cleaver-Brooks'  
 15 lawyers.  
 16 You said, I searched the sites of  
 17 the plants that I was told to. Mr. Bumgardner  
 18 testified that he was -- there were 13 different  
 19 plants. It's not entirely clear to me if only  
 20 five of those 13 were looked at, or six; but for  
 21 the ones that weren't, I think the Order in  
 22 Exhibit 30, indicated that every place he  
 23 identified should have been checked. If those  
 24 weren't, they should be checked.  
 25 MR. THOENSEN: The -- what was

1 we'll talk about that. My recollection, off the  
 2 top of my head -- and I am talking about e-mail  
 3 communication between you and I -- was that you  
 4 were specifically interested in whether or not a  
 5 boiler was shipped; and if it was shipped, the  
 6 year of shipment.  
 7 MS. DEAN: That's true.  
 8 MR. THOENSEN: That's precisely  
 9 what you were given.  
 10 MS. DEAN: Well, what I said is I  
 11 was concerned that -- that you were just going to  
 12 give me the site and not the information that  
 13 came from the site search; and that in addition  
 14 to knowing the location, I was very interested in  
 15 the date. You're right about that part of the  
 16 brief, and I wasn't inquiring about the model  
 17 searches. I misunderstood from the testimony you  
 18 had with Mr. Carroll and thought that that was an  
 19 additional step.  
 20 If it's not, it's on the card.  
 21 That's information that you would get from the  
 22 site search. I think that's within what the  
 23 judge asked for. And more importantly, you have  
 24 it already. Okay? It's in the card. And so it  
 25 can just be a list sent to me.

1 MR. THOENSEN: Okay. Well, let's  
2 just clarify. You -- you want the site search  
3 for the remaining Springs plants and --

4 MS. DEAN: The model numbers.  
5 MR. THOENSEN: -- and the model  
6 numbers for all of the Springs plants. Or just  
7 the ones that have not yet been looked at?

8 MS. DEAN: Just for the ones that  
9 have not yet been looked at.

10 MR. THOENSEN: Okay.

11 MS. DEAN: Because we have them  
12 for the ones that are on 34, and for the two that  
13 are reflected on Number 9 of Exhibit -- the  
14 one -- the last that you guys had of the current  
15 site search, where 9 indicates there was two  
16 boilers.

17 MR. THOENSEN: Okay. Okay.

18 MS. DEAN: I don't think either of  
19 these things are lengthy projects. I think they  
20 were contained by the Order. And if you're  
21 taking the position, which I have heard both the  
22 client take and you take, that the manuals need  
23 to be specific to the type of boilers, that basic  
24 information goes a long way from us arguing about  
25 hypotheticals and actually knowing what we're

1 known as a thermocouple?

2 A. No.

3 Q. Do those package boilers contain a device  
4 known as a sending unit?

5 A. I am not certain what a sending unit is, but  
6 I think it's a transmitter for some flow device in  
7 the system. So I would say no.

8 And I would just clarify the two adults in a  
9 boiler. On our largest fire tube, which some of  
10 these are the 96-inch size, the furnace is 40 inches  
11 or so in diameter. I suppose two people could be  
12 laying down inside that, head to -- head to foot. So  
13 I just thought I'd clarify that.

14 Q. Okay. Well, let -- let -- that's a --  
15 that's a good clarification. And let me ask you this  
16 question also:

17 If there is testimony in this case that the  
18 plaintiff would have entered a boiler to change a  
19 thermocouple or to do anything, for that matter, at  
20 the same time that another worker would have been  
21 inside the same boiler performing some kind of work  
22 on the refractory and cement, is it possible that the  
23 boiler being described was one of these  
24 Cleaver-Brooks package boilers?

25 A. No.

1 talking about.

2 MR. THOENSEN: Okay. I have a few  
3 questions for Mr. Tornetta. And hopefully, we'll  
4 wrap up.

5 EXAMINATION  
6 BY MR. THOENSEN:

7 Q. Mr. Tornetta, how long have you been an  
8 employee of Cleaver-Brooks?

9 A. Since 1985.

10 Q. During your employment with Cleaver-Brooks,  
11 have you had the opportunity yourself to work with  
12 and work around package boilers very similar or  
13 almost exactly like the ones that are at issue in  
14 this case that we have identified at Springs  
15 Industries?

16 A. Yes.

17 Q. Have you seen those types of boilers in  
18 operation in the field?

19 A. Yes.

20 Q. Do you have -- well, let me ask you this:  
21 On those types of package boilers, is it physically  
22 possible for two adults to be inside one at the same  
23 time?

24 A. No.

25 Q. Do those package boilers contain a device

1 Q. Do these Cleaver-Brooks package boilers that  
2 are at issue and that have been identified at the  
3 Spring sites contain electrical controls on the face  
4 of the boiler?

5 A. Outside face we're talking?

6 Q. Right.

7 A. Yes.

8 Q. What types of controls might be found on the  
9 outside face?

10 A. There would be steam pressure controls, in  
11 some instances. Air pressure switches. There would  
12 be gas pressure switches, but not necessarily on the  
13 face.

14 Q. Okay.

15 A. There would be a flame safeguard, but that  
16 could be technically an electrical control.

17 Q. All right. For all of the boilers so far  
18 identified at the Springs Industries locations that  
19 you have reviewed, have you found with any of them  
20 that they were shipped by Cleaver-Brooks with  
21 asbestos-containing insulation on the exterior?

22 A. No, I have not found that.

23 Q. With regard to these Cleaver-Brooks package  
24 boilers, fire tube boilers that we're discussing, are  
25 you aware of any reason for an electrician or a

Exhibit I to Plaintiffs' Supplemental  
Response in Opposition to Cleaver-Brooks's  
Motion for Summary Judgment

Order from *Bumgardner v. ABB, Inc.* (Jan.  
19, 2011)



production provided that Plaintiffs' counsel identifies that boiler to counsel before Saturday, January 16, 2011.

All documents ordered to be searched above shall be made available to Plaintiffs' counsel on or before Wednesday, January 19, 2011 at 12:00 p.m. est.

The deposition of Cleaver Brooks Corporate representative shall proceed as noticed by Plaintiffs' counsel on December 20th, 2010 except for that it will take place on Thursday, January 20, 2011 instead of January 18, 2011 and that the location of the deposition will proceed in a place agree to by the parties. In the event that an agreement cannot be reached the deposition will proceed in Greenville, South Carolina.

Signed on 19<sup>th</sup> day of January, 2011.



\_\_\_\_\_  
PRESIDING JUDGE