

IN THE CIRCUIT COURT FOR THE CITY OF ST. LOUIS
STATE OF MISSOURI

DONALD WARD,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	Cause No. 022-01404
	)	Division No. 1
PNEUMO ABEX CORPORATION, et al.,	)	<i>Asbestos Personal Injury</i>
	)	JURY TRIAL DEMANDED
Defendants.	)	

**PLAINTIFF'S MEMORANDUM IN SUPPORT
OF SUBMITTING PUNITIVE DAMAGES TO THE JURY**

**Plaintiff Has Made Submissible Case
For Punitive Damages Against Defendant Pneumo Abex Corporation**

Under Missouri law, punitive damages are allowed where the jury has determined that the defendant knew or should have known that its conduct "created a high degree of probability of injury...and thereby showed complete indifference to or conscious disregard for the safety of others." *Alcorn v. Union Pacific Railroad Co.*, 50 S.W.3d 226, 247 (Mo banc 2001). This determination must be supported by clear and convincing evidence. *See Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104 (Mo. banc 1996). Plaintiff, in the case at bar, has presented a submissible case for punitive damages against Defendant Pneumo Abex Corporation (Abex) pursuant to this standard.

**The Jury Should Decide If Defendant's Misconduct
Meets The Standard For Imposing Punitive Damages**

The Missouri Supreme Court has indicated that "careful judicial scrutiny" is required to ensure that the defendant's misconduct "was so egregious that it was 'tantamount to intentional wrongdoing.'" *Alcorn*, 50 S.W.3d at 248 (*quoting Lopez v. Three Rivers Electric Cooperative*, 26