

FILE NAME: Quigley (QUIG)

DATE: 2014

DOC#: QUIG052

DOCUMENT DESCRIPTION: Legal – Declaration of Barry Castleman

12/21/2014

HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SHARLEEN SPRAGUE, Personal
Representative of the Estate of JAMES
OLSON; MARTHA P. LANGDON,
Individually and as Personal Representative of
the Estate of WAYNE V. LANGDON,

Plaintiffs,

v.

PFIZER, INC.,

Defendant.

NO. 3:14-cv-05084-RJB

DECLARATION OF BARRY I.
CASTLEMAN

I, BARRY I. CASTLEMAN, declare and state as follows:

1. I am over the age of 18 and make this statement based upon personal knowledge.

I am qualified to offer the opinions contained herein for each and all of the below stated reasons.

2. In 1968, I received a Bachelor's Degree in Chemical Engineering from Johns Hopkins University. I also have a master's Degree in Environmental Engineering, which was mainly in areas related to air pollution control from Johns Hopkins University, 1972. I was awarded a Doctor of Science Degree in Health Policy from Johns Hopkins School of Hygiene and Public health in 1985. The Doctoral degree was awarded for two years of course work,

1 various examinations, and the writing of a doctoral dissertation. The course work was mainly in
2 the areas of toxicology, epidemiology, biostatistics, physiology, and public health policy.

3 3. My doctoral thesis was, Asbestos: An Historical Case Study of Corporate
4 Response to an Industrial Health Hazard, and is largely identical to a book published in 1984 by
5 Prentice Hall Law and Business called Asbestos: Medical and Legal Aspects (now in its 5th
6 Edition, 2005). The doctoral thesis is a historical review of the asbestos problem as a public
7 health problem in society worldwide, but mainly in the United States. It encompasses a
8 comprehensive review of medical literature of all kinds, as well as other literature available in
9 libraries and published sources such as government publications, safety magazines, engineering
10 journals, trade magazines, insurance publications, encyclopedias, magazines, and newspapers.

11 4. In addition to published information of all kinds, I examined files, unpublished
12 information available from the U.S. government archives, the archives of scientists and the
13 archives of institutions that had worked for and with asbestos companies. I also looked at
14 unpublished information which was obtained in legal discovery. This included trade association
15 minutes, corporate documents, and testimony of corporate officials who were associated with
16 asbestos hazards over the years -doctors, plant managers, executives, and other people who were
17 aware of events that transpired.

18 5. In sum, my professional experience goes back over forty years in the area of
19 asbestos and other occupational and environmental health problems. My field is occupational
20 and environmental policy, which is a branch of Public Health, mainly oriented towards the
21 recognition of risk factors and the prevention of disease from industrial activities.

22 6. In addition to published information and corporate knowledge that came out of
23 mainly legal discovery, I have also interviewed historically important practitioners in the field of

1 industrial medicine and hygiene. These included physicians who were active in the field of
2 occupational medicine, such as Harold Stewart, who first published on asbestosis in 1931 and
3 Alfred Angrist who first published on asbestos and lung cancer in 1942. They are both
4 pathologists; Dr. Wilhelm Hueper, a leading United States authority in the field of occupational
5 cancer and first director of the environmental cancer section of the National Cancer Institute; Dr.
6 Harriet Hardy, Dr. Thomas Mancuso, Dr. Gerrit Schepers, and others who were involved in the
7 area of asbestos and health over the past decades.

8 7. The relationship between asbestos and lung disease was well-documented in the
9 medical literature from the 1920s onward and the occupational hazards of asbestos exposure was
10 known within industry from the early-1930s. However, until the mid-1960s there were few
11 references to asbestos hazards in the popular press available to consumers.

12 8. In 1964, Dr. Irving Selikoff and his coworkers published a mortality study in
13 JAMA showing that there was a substantial excess of occupational cancer and deaths from
14 asbestosis among people involved in the insulating trades. Later in 1964, at an international
15 conference held in New York City and published in 1965 entitled "Biological Effects of
16 Asbestos", Selikoff and his coworkers reported that around 80% of the people who were in the
17 insulating trade had developed asbestosis by the time they had been in the trade for 30 years or
18 more. The Selikoff report was widely reported in the popular press and led to increased
19 awareness among the consuming public that asbestos was hazardous to human health. Exhibits 1
20 and 2 are articles from the New York Times discussing Dr. Selikoff's report.

21 9. In the years following the Selikoff report, local newspapers around the country
22 devoted increased attention to asbestos hazards. Exhibits 3, 4, 5, and 6, are copies of articles
23 from the Seattle Times in the 1968-1974 time-period discussing asbestos hazards which are

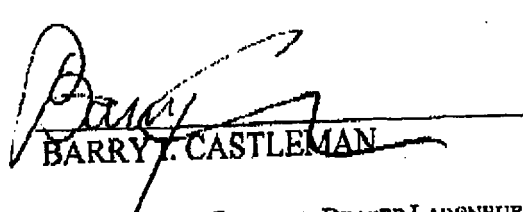
1 generally representative of articles published nationwide. In addition to newspaper reports,
2 popular magazines increased their reporting of asbestos hazards in the late-1960s and early-
3 1970s. Exhibit 7 is a widely publicized article that appeared in the New Yorker on 10/12/1968.

4 10. I have reviewed marketing materials for Insulag refractory lagging in this case
5 attached as Exhibit 8. Those marketing materials represent that Insulag is "non-injurious" and
6 contain the Pfizer and Quigley logos side-by-side over the phrase "Manufacturers of
7 Refractories- Insulations". While not an expert on branding, I have been asked to assume that, as
8 a pharmaceutical company, Pfizer's brand identity was associated with health and safety while
9 Quigley's brand was historically associated with refractory and insulation.

10 11. Any representation that an asbestos-containing product was "non-injurious" ran
11 contrary to the prevailing medical, scientific and regulatory opinion that existed in the 1968-1974
12 time period. Moreover, as I have described above, the extent of public concern regarding
13 asbestos hazards was increasing in the 1968-1974 time-period during which asbestos-containing
14 Insulag was being manufactured and sold with the Pfizer logo. Assuming that Pfizer's brand
15 identity encompassed health and safety, associating that brand with a representation that Insulag
16 was "non-injurious" would have added credibility to this representation and countered popular
17 concern over asbestos hazards associated with the product.

18 **I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE UNITED**
19 **STATES THAT THE FOREGOING IS TRUE AND CORRECT**

20
21 Dated at Gaithersburg, Maryland this 21 day of December 2014.

22
23 
BARRY J. CASTLEMAN

DECLARATION OF BARRY CASTLEMAN,

- 4

BERGMAN DRAPER LADENBURG HART
614 FIRST AVENUE, FOURTH FLOOR
SEATTLE, WA 98104
TELEPHONE: 206.987.9510