FILE NAME: Kubota (KUB)

DATE: 2007

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DOCUMENT DESCRIPTION: Legal - Notice of Taking Deposition of Kubota

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CHRIS WEBBER, Plaintiffs, vs. A.H. VOSS, INDIVIDUALLY AND AS SUCCESSOR-IN-INTEREST TO VOSS INTERNATIONAL CORPORATION, et al., Defendants.	Case No.: BC 368967 **NOTICE OF TAKING DEPOSITION OF DEFENDANT KUBOTA CORPORATION, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO KUBOTA IRON AND MACHINERY WORKS AND KUBOTA AMERICA PERSON(S) MOST KNOWLEDGEABLE AND CUSTODIAN(S) OF RECORDS AND REQUEST TO PRODUCE DOCUMENTS AT DEPOSITION [CCP §2017, 2019 AND 2025] (NOTICE 2 – PRODUCT SAFETY TESTING)**

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on December 4, 2007 at 1:00 p.m. at the offices of Ludwig Klein Court Reporters & Video, Inc., located at 10868 Kling Street, Toluca Lake, California, 800-540-0681, plaintiffs will take the deposition of **KUBOTA CORPORATION, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO KUBOTA IRON AND MACHINERY WORKS AND KUBOTA AMERICA ("KUBOTA")** who shall designate and produce its Custodian(s) of Records. Pursuant to C.C.P. § 2025(h) and § 2026, plaintiff in the above-captioned action requests **KUBOTA** to bring to the deposition for inspection and copying the documents and things described herein and to make these documents and things available two days prior to the commencement of the

deposition for plaintiff's review. This Notice to Produce specifically embraces documents within the possession, custody, or control of **KUBOTA** its agents, representatives, or attorneys. This Notice to Produce also embraces originals, identical copies, all non-identical copies (whether different from the original because of notes made on such copies or otherwise), and other documents described herein. The deposition will be recorded both by a certified shorthand reporter and by video and will continue day to day until completed.

PLEASE TAKE NOTICE that on December 4, 2007 at 2:00 p.m. at the offices of Ludwig Klein Court Reporters & Video, Inc., located at 10868 Kling Street, Toluca Lake, California, 800-540-0681, plaintiffs will take the deposition of **KUBOTA CORPORATION, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO KUBOTA IRON AND MACHINERY WORKS AND KUBOTA AMERICA ("KUBOTA")** through its person most knowledgeable about the matters set forth in this Notice. Said deposition will be recorded both by a certified shorthand reporter and by video and will continue day to day until completed.

NOTICE IS FURTHER GIVEN that said **KUBOTA** and/or deponent is required to produce at said time and place, the documents, papers, books, and other things set forth under the Documents Requested section below, for copying and examination, pursuant to California Code of Civil Procedure Section 2025(h)(1):

DEFINITIONS

1. **"YOU", "YOUR"** or **"DEFENDANT"** shall refer to **Kubota America Corporation, Kubota Iron and Machinery Works, Kubota Corporation,** its officers, directors, partners, EMPLOYEES, agents, joint venturers, parent entities, predecessors, subsidiaries, divisions and contract units.

2. **"VOSS"** shall refer to **A.H. Voss Company, Voss International Corp.,** and **Voss International,** its officers, directors, partners, EMPLOYEES, agents, joint venturers, parent entities, predecessors, subsidiaries, divisions and contract units.

3. "**ASBESTOS CONTAINING MATERIALS**" shall refer to any and all asbestos-cement pipe.

4. "**NON-ASBESTOS CONTAINING MATERIALS**" shall refer to any and all non-asbestos containing pipe.

5. "**CONCERNING**" herein means demonstrating, reflecting, evidencing, referring to, depicting, concerning, referencing, touching upon, discussing, evidencing, describing, identifying, supporting, or resulting from the matter specified, including, in each instance, documents now or previously attached or appended to or used in the preparation of any document called for by each request.

6. "**DOCUMENTS**" shall mean "writing" as defined in California Evidence Code 250, which includes without limitation all handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including catalogs, letters, words, pictures, sounds or symbols, or combinations thereof. This term shall also include e-mail transmissions and writings stored on all computer-related medium, including hard disk drives, floppy disk drives, CD-Roms and DVDs, and will be referred to below as "documents."

7. "**EMPLOYEE(S)**" shall refer to any individual currently or formerly in an employment relationship with DEFENDANT, and any individual acting as a corporate officer and/or serving as a consultant or independent contractor.

8. "**HAZARDS ASSOCIATED WITH ASBESTOS EXPOSURE**" shall refer to the risks of the development of asbestos related lung disease including but not limited to mesothelioma, lung cancer, asbestosis and pleural plaques.

9. **"IDENTIFICATION MARKINGS"** shall refer to any branding, logo, symbol, sign, emblem, badge, insignia, indication, feature, characteristic, crest, motif, and mark.

10. **"IDENTIFY"** with regard to a person or business means to state his or her or its name, her or her place of employment or the business's address, his or her job title, present business or present or last known home address, and present business telephone number.

11. **"IDENTIFY"** with regards to a DOCUMENT shall mean to state (a) the author; (b) the addressee; (c) the date of origin; (d) the nature of the writing or document (e.g., letter telephone memorandum, tape recording, photograph, etc.); and present location and name the present location and present address of the custodian thereof.

12. **"WORKSITES"** shall include, but not be limited all sites located in Los Angeles County, CA wherein VOSS supplied ASBESTOS CEMENT PIPE between 1965 and 1967, inclusive.

13. **"RESPIRATORY PROTECTION"** shall refer to any respiratory protective device, including, but not limited to full or partial face coverings, masks, respirators, filters, cartridges, canisters, hoses, straps, air supply systems and linings designed to remove dust, fibers, ASBESTOS, fumes and/or contaminants from the air.

14. **"SAFETY MEETING"** shall refer to any gathering wherein matters concerning occupational safety, safety procedures, safe work practices, and/or the HAZARDS ASSOCIATED WITH ASBESTOS EXPOSURE are discussed or information CONCERNING these matters is disseminated.

15. **"SAFETY PERSONNEL"** shall refer to individuals trained to identify safety hazards and required to enforce safety regulations and/or inform EMPLOYEES of safety hazards and safe work practices.

16. "**SUPPLY**" or "**SUPPLIED**" or "**SUPPLIER**" shall refer to any entity engaged in selling, distributing, making available, providing, leasing, or otherwise transferring for value.

17. The term "**SYSTEM OF DISTRIBUTION**" shall refer to distribution, receiving from supplier, warehousing, shipping, delivery, and the manner in which all of the before is accomplished.

18. The term "**COMMUNICATION**" shall refer to any message, communiqué, announcement, statement, letter, phone call, memo, memorandum, note, declaration, notice, proclamation, report, account, assertion, publication, advertisement, whether the communication be made written or verbal, via mail or telephone, and/or made first person and/or through a third party.

19. The term "**CONSUMER(S)**" shall refer to the ordinary user of the product, as referred to in Jury Instruction 1203 of the Judicial Council of California Advisory Committee on Civil Jury Instructions (CACI).

20. The term "**WARNING(S)**" shall refer to its ordinary meaning, as referred to in Jury Instruction 1205 of the Judicial Council of California Advisory Committee on Civil Jury Instructions (CACI).

DOCUMENTS TO BE PRODUCED:

1. All DOCUMENTS containing information CONCERNING any product safety testing performed by YOU, prior to 1967 CONCERNING the ASBESTOS CONTAINING MATERIALS YOU SUPPLIED to VOSS between the years 1965 and 1967, inclusive.

2. All DOCUMENTS containing information CONCERNING any product safety testing performed at YOUR request, reviewed by you prior to 1967, CONCERNING the ASBESTOS CONTAINING MATERIALS YOU SUPPLIED to VOSS between the years 1965 and 1967, inclusive.

3. All DOCUMENTS containing information CONCERNING any product safety testing performed by any entity or person other than YOU, reviewed by you prior to 1967, CONCERNING the ASBESTOS CONTAINING MATERIALS YOU SUPPLIED to VOSS between the years 1965 and 1967, inclusive.

4. All DOCUMENTS containing information CONCERNING any research performed by YOU of how ASBESTOS CONTAINING PRODUCTS you manufactured where being used by CONSUMERS, prior to 1967, inclusive.

5. All DOCUMENTS containing information CONCERNING any research performed by YOU of how ASBESTOS CONTAINING PRODUCTS you manufactured where being HANDLED by VOSS prior to 1967, inclusive,

6. All DOCUMENTS containing information CONCERNING any research performed by YOU of the CONSUMERS response to any warnings that may have CONCERNED ASBESTOS CONTAINING PRODUCTS YOU manufactured prior to 1967, inclusive.

7. All DOCUMENTS containing information CONCERNING any research performed by YOU of VOSS's actions in response to any warnings that may have CONCERNED ASBESTOS CONTAINING PRODUCTS YOU manufactured prior to 1967, inclusive.

8. All DOCUMENTS you reviewed prior to 1967, inclusive, containing information CONCERNING how ASBESTOS CONTAINING PRODUCTS you manufactured where being used by CONSUMERS.

9. All DOCUMENTS containing information CONCERNING any research reviewed by YOU prior to 1967, inclusive, CONCERNING what knowledge CONSUMERS of ASBESTOS CONTAINING MATERIALS YOU MANUFACTURED possessed CONCERNING the HAZARDS ASSOCIATED WITH ASBESTOS EXPOSURE.

10. All DOCUMENTS containing information CONCERNING any research, reviewed by YOU prior to 1967, inclusive, CONCERNING what knowledge VOSS possessed CONCERNING the HAZARDS ASSOCIATED WITH ASBESTOS EXPOSURE from ASBESTOS CONTAINING MATERIALS YOU MANUFACTURED.

11. All DOCUMENTS containing information CONCERNING any research reviewed by YOU of how ASBESTOS CONTAINING PRODUCTS YOU manufactured where being used by VOSS prior to 1967, inclusive.

12. All DOCUMENTS reviewed by YOU prior to 1967, inclusive CONCERNING CONSUMERS actions in response to any warnings that may have CONCERNED ASBESTOS CONTAINING PRODUCTS YOU manufactured prior to 1967, inclusive.

13. All DOCUMENTS containing information CONCERNING VOSS's actions in response to any warnings that may have CONCERNED ASBESTOS CONTAINING PRODUCTS YOU manufactured, that YOU are aware of, prior to 1967, inclusive

14. All DOCUMENTS containing information CONCERNING the asbestos fiber release that occurred when ASBESTOS CONTAINING MATERIALS YOU manufactured and supplied to VOSS prior to 1967, inclusive, were cut with a power saw.

15. All DOCUMENTS in your possession containing information CONCERNING any testing CONCERNING asbestos fiber release from ASBESTOS CEMENT PIPE.

16. All DOCUMENTS in your possession containing information CONCERNING any quality assurance testing CONCERNING ASBESTOS CONTAINING MATERIALS you SUPPLIED to VOSS, prior to 1967, inclusive.

17. All DOCUMENTS containing information CONCERNING the identity of EMPLOYEES who were consulted in the identification of documents for Categories 1-16 of this notice,

PLAINTIFF'S NOTICE OF TAKING DEPOSITION OF DEFENDANT KUBOTA CORPORATION, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO KUBOTA IRON AND MACHINERY WORKS AND KUBOTA AMERICA'S PERSON(S) MOST KNOWLEDGEABLE AND CUSTODIAN(S) OF RECORDS AND REQUEST TO PRODUCE DOCUMENTS AT DEPOSITION (NOTICE 2).

18. All DOCUMENTS containing information CONCERNING YOUR DOCUMENT RETENTION POLICY as it CONCERNS all DOCUMENTS produced in response to Categories 1-16 of this notice, PLAINTIFF'S NOTICE OF TAKING DEPOSITION OF DEFENDANT KUBOTA CORPORATION, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO KUBOTA IRON AND MACHINERY WORKS AND KUBOTA AMERICA'S PERSON(S) MOST KNOWLEDGEABLE AND CUSTODIAN(S) OF RECORDS AND REQUEST TO PRODUCE DOCUMENTS AT DEPOSITION (NOTICE - 2).

19. ALL DOCUMENTS you reviewed in preparation for this deposition.

PERSON(S) MOST KNOWLEDGEABLE:

1. All information CONCERNING any product safety testing performed by YOU, prior to 1967 CONCERNING the ASBESTOS CONTAINING MATERIALS YOU SUPPLIED to VOSS between the years 1965 and 1967, inclusive.
2. All information CONCERNING any product safety testing performed at YOUR request, reviewed by you prior to 1967, CONCERNING the ASBESTOS CONTAINING MATERIALS YOU SUPPLIED to VOSS between the years 1965 and 1967, inclusive.
3. All information CONCERNING any product safety testing performed by any entity or person other than YOU, reviewed by you prior to 1967, CONCERNING the ASBESTOS

CONTAINING MATERIALS YOU SUPPLIED to VOSS between the years 1965 and 1967, inclusive.

4. All information CONCERNING any research performed by YOU of how ASBESTOS CONTAINING PRODUCTS you manufactured where being used by CONSUMERS, prior to 1967, inclusive.

5. All information CONCERNING any research performed by YOU of how ASBESTOS CONTAINING PRODUCTS you manufactured where being HANDLED by VOSS prior to 1967, inclusive,

6. All DOCUMENTS containing information CONCERNING any research performed by YOU of the CONSUMERS response to any warnings that may have CONCERNED ASBESTOS CONTAINING PRODUCTS YOU manufactured prior to 1967, inclusive.

7. All information CONCERNING any research performed by YOU of VOSS's actions in response to any warnings that may have CONCERNED ASBESTOS CONTAINING PRODUCTS YOU manufactured prior to 1967, inclusive.

8. All DOCUMENTS you reviewed prior to 1967, inclusive, containing information CONCERNING how ASBESTOS CONTAINING PRODUCTS you manufactured where being used by CONSUMERS.

9. All information CONCERNING any research reviewed by YOU prior to 1967, inclusive, CONCERNING what knowledge CONSUMERS of ASBESTOS CONTAINING MATERIALS YOU MANUFACTURED possessed CONCERNING the HAZARDS ASSOCIATED WITH ASBESTOS EXPOSURE.

10. All information CONCERNING any research, reviewed by YOU prior to 1967, inclusive, CONCERNING what knowledge VOSS possessed CONCERNING the HAZARDS

ASSOCIATED WITH ASBESTOS EXPOSURE from ASBESTOS CONTAINING MATERIALS YOU MANUFACTURED.

11. All information CONCERNING how ASBESTOS CONTAINING PRODUCTS YOU manufactured where being used by VOSS prior to 1967, inclusive.

12. All information knew by YOU prior to 1967, inclusive CONCERNING CONSUMERS actions in response to any warnings that may have CONCERNED ASBESTOS CONTAINING PRODUCTS YOU manufactured prior to 1967, inclusive.

13. All information CONCERNING VOSS's actions in response to any warnings that may have CONCERNED ASBESTOS CONTAINING PRODUCTS YOU manufactured, that YOU are aware of, prior to 1967, inclusive

14. All information CONCERNING the asbestos fiber release that occurred when ASBESTOS CONTAINING MATERIALS YOU manufactured and supplied to VOSS prior to 1967, inclusive, were cut with a power saw.

15. All information CONCERNING any testing CONCERNING asbestos fiber release from ASBESTOS CEMENT PIPE.

16. All information CONCERNING any quality assurance testing CONCERNING ASBESTOS CONTAINING MATERIALS you SUPPLIED to VOSS, prior to 1967, inclusive.

17. All information CONCERNING the identity of EMPLOYEES who were consulted in the identification of documents CONCERNING Categories 1-19 of this notice, PLAINTIFF'S NOTICE OF TAKING DEPOSITION OF DEFENDANT KUBOTA CORPORATION, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO KUBOTA IRON AND MACHINERY WORKS AND KUBOTA AMERICA'S PERSON(S) MOST

KNOWLEDGEABLE AND CUSTODIAN(S) OF RECORDS AND REQUEST TO PRODUCE DOCUMENTS AT DEPOSITION (NOTICE 2).

18. All information CONCERNING YOUR DOCUMENT RETENTION POLICY as it CONCERNS all DOCUMENTS produced in response to Categories 1-19 of this notice, PLAINTIFF'S NOTICE OF TAKING DEPOSITION OF DEFENDANT KUBOTA CORPORATION, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO KUBOTA IRON AND MACHINERY WORKS AND KUBOTA AMERICA'S PERSON(S) MOST KNOWLEDGEABLE AND CUSTODIAN(S) OF RECORDS AND REQUEST TO PRODUCE DOCUMENTS AT DEPOSITION (NOTICE -2).

19. All information concerning any DOCUMENTS you reviewed in preparation for this deposition.

20. All information concerning any DOCUMENTS requested in Categories 1-19 of the DOCUMENTS TO BE PRODUCED section of this deposition notice.

21. All information CONCERNING the identity of EMPLOYEES who were consulted in the identification of documents for Categories 1-18 of PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS SET TWO.

DATED: October 17, 2007

LEVIN SIMES KAISER & GORNICK LLP

Raymond D. Mueller
Attorney for Plaintiff

PROOF OF SERVICE

I certify that I am over the age of 18 years and not a party to the within action; that my business address is 44 Montgomery St., 36th Floor, San Francisco, CA 94104; and that on the date last written, I served a true copy of the document(s) entitled:

NOTICE OF TAKING DEPOSITION OF DEFENDANT KUBOTA CORPORATION, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO KUBOTA IRON AND MACHINERY WORKS AND KUBOTA AMERICA PERSON(S) MOST KNOWLEDGEABLE AND CUSTODIAN(S) OF RECORDS AND REQUEST TO PRODUCE DOCUMENTS AT DEPOSITION [CCP §2017, 2019 AND 2025] (NOTICE 2 – PRODUCT SAFETY TESTING)

Service was effectuated by forwarding the above-noted document in the following manner:

[x] By Regular Mail in a sealed envelope, addressed as noted below, with postage fully prepaid and placing it for collection and mailing following the ordinary business practices of Levin Simes Kaiser & Gornick LLP.

***SEE SERVICE LIST**

[ ] By Hand Delivery in a sealed envelope, addressed as noted above, through services provided by and billed to Levin Simes Kaiser & Gornick LLP.

[ ] By Facsimile to the numbers as noted below by placing it for facsimile transmittal following the ordinary business practices of Levin Simes Kaiser & Gornick LLP.

[ ] By Overnight Courier in a sealed envelope, addressed as noted above, through services provided by (Federal Express, UPS,) and billed to Levin Simes Kaiser & Gornick LLP.

[ ] Electronic service **via LexisNexis File & Serve** on the recipients designated on the Transaction Receipt located on the LexisNexis File & Serve website.

I declare under penalty of perjury, under the law of the State of California, that the foregoing is true and correct. Executed on ~~Wednesday~~ Thursday, October ~~17~~ 18, 2007, at San Francisco, California.

Amity Armstrong

Chris Webber v. AH Voss Company, et al.
LASC BC368967