

FILE NAME: Kubota (KUB)

DATE: 2010

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9 RHODA EVANS AND BOBBY EVANS

10 SUPERIOR COURT OF CALIFORNIA

11 COUNTY OF LOS ANGELES

12 (Unlimited Jurisdiction)

13 **RHODA EVANS AND BOBBY EVANS,**) Case No. BC418867

14 **Plaintiffs,**)

15 **vs.**)

16 **A.W. CHESTERTON COMPANY, et al.**)

17 **Defendants.**)

18 **PLAINTIFFS' REQUESTS FOR**
19 **ADMISSION TO DEFENDANT KUBOTA**
20 **CORPORATION**

21 PROPOUNDING PARTIES: RHODA EVANS AND BOBBY EVANS

22 RESPONDING PARTY: KUBOTA CORPORATION

23 SET NO.: ONE

DEFINITIONS

1. The term “YOU” or “YOUR” 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. The term “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. The phrase “**ASBESTOS-CONTAINING MATERIALS**” (“ASBESTOS CONTAINING MATERIAL”) means any product which YOU know or believe to contain any amount of the mineral asbestos, including, but not limited to, any and all raw asbestos, vermiculite, amosite, tremolite, chrysotile, crocidolite, asbestine, and/or talc. Also this phrase shall include any product which YOU know or believe to contain any amount of the mineral asbestos including: valves, gaskets, insulation, insulating materials, packing materials, transite pipes, asbestos-cement pipe, pipe insulation, or other products containing any amount of asbestos.
4. The term “**SOLD**” shall refer to sale, shipment, delivery, provision and/or distribution.
5. “**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.”
6. “**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.

- 1 7. **"HAZARDS ASSOCIATED WITH ASBESTOS EXPOSURE"** shall refer to the risks of
2 the development of asbestos related lung disease including but not limited to mesothelioma,
3 lung cancer, asbestosis and pleural plaques.
- 4 8. **"IDENTIFICATION MARKINGS"** shall refer to any branding, logo, symbol, sign
5 emblem, badge, insignia, indication, feature, characteristic, crest, motif, and mark.
- 6 9. **"WORKSITES"** shall include, but not be limited all sites located in Los Angeles County,
7 CA wherein VOSS supplied ASBESTOS CEMENT PIPE.
- 8 10. **"RESPIRATORY PROTECTION"** shall refer to any respiratory protective device,
9 including, but not limited to full or partial face coverings, masks, respirators, filters,
10 cartridges, canisters, hoses, straps, air supply systems and linings designed to remove dust,
11 fibers, ASBESTOS, fumes and/or contaminants from the air.
- 12 11. **"SUPPLY" or "SUPPLIED" or "SUPPLIER"** shall refer to any entity engaged in selling,
13 distributing, making available, providing, leasing, or otherwise transferring for value.
- 14 12. The term **"SYSTEM OF DISTRIBUTION"** shall refer to distribution, receiving from
15 supplier, warehousing, shipping, delivery, and the manner in which all of the before is
16 accomplished.
- 17 13. The term **"HAZARDS ASSOCIATED WITH ASBESTOS EXPOSURE"** shall refer to the
18 development of asbestos related lung disease including but not limited to mesothelioma, lung
19 cancer, asbestosis and pleural plaques.
- 20 14. The term **"LOCATIONS"** shall refer to any and all retail stores, wholesale stores, shipping
21 and receiving centers.
- 22 15. **"IDENTIFY"** with regard to a person or business means to state his or her or its name, her or
23 her place of employment or the business's address, his or her job title, present business or
24 present or last known home address, and present business telephone number.
- 25 16. **"IDENTIFY"** with regards to a DOCUMENT shall mean to state (a) the author; (b) the
26 addressee; (c) the date of origin; (d) the nature of the writing or document (e.g., letter
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1 telephone memorandum, tape recording, photograph, etc.); and present location and name the
2 present location and present address of the custodian thereof.

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

6 18. As used herein, the term "ACQUISITION" means the purchase, acquisition, gain,
7 possession, merger, attainment or acquirement of another entity.

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9 **REQUESTS FOR ADMISSION**

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11 **REQUEST FOR ADMISSION NO. 1:**

12 Admit that on approximately June 29, 2005, you made an announcement regarding the
13 occurrence of many occupational victims of asbestos, as well as the victims of asbestos dust from
14 environmental exposure around the Kanzaki plant.

15 **REQUEST FOR ADMISSION NO. 2:**

16 Admit that approximately 75 former workers of the Kanzaki Plant developed
17 mesothelioma as a result of their exposure to the plant's asbestos-containing products, and have
18 died as a result of this fatal disease.

19 **REQUEST FOR ADMISSION NO. 3:**

20 Admit that you have compensated the surviving families of deceased workers of the
21 Kanzaki Plant who developed mesothelioma as a result of their exposure to the plant's asbestos-
22 containing products.

23 **REQUEST FOR ADMISSION NO. 4:**

24 Admit that residents of Amagasaki City, Japan developed fatal mesothelioma during and
25 after the years the Kanzaki Plant produced asbestos-containing products as a result of exposure
26 to the Kanzaki Plant's asbestos-containing products.

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1 **REQUEST FOR ADMISSION NO. 5:**

2 Admit that from 1962 through 1975 approximately 240,000 tons of asbestos was used at
3 the Kanzaki Plant in the production of asbestos water pipes and building material.

4 **REQUEST FOR ADMISSION NO. 6:**

5 Admit that from 1962 through 1975 YOU were informed and had documentation
6 regarding the HAZARDS ASSOCIATED WITH ASBESTOS EXPOSURE and/or ASBESTOS
7 CONTAINING MATERIAL.

8 **REQUEST FOR ADMISSION NO. 7:**

9 Admit that from 1962 through 1975 precautionary equipment was available to YOU, to
10 protect YOUR employees from HAZARDS ASSOCIATED WITH EXPOSURE TO
11 ASBESTOS.

12 **REQUEST FOR ADMISSION NO. 8:**

13 Admit that YOU did not offer protective respiratory equipment to employees at all of
14 your asbestos cement pipe manufacturing facilities from 1962 through 1975.

15 **REQUEST FOR ADMISSION NO. 9:**

16 Admit that YOU did not provide consumers of your produced asbestos-containing
17 products any WARNINGS about the HAZARDS RELATED TO ASBESTOS EXPOSURE with
18 the ASBESTOS CONTAINING MATERIAL YOU SOLD at any time from 1962 through 1975.

19 **REQUEST FOR ADMISSION NO. 10:**

20 Admit that YOU did not provide WARNINGS on any packaging or product itself
21 associated with ASBESTOS CONTAINING MATERIAL YOU provided to consumers of your
22 produced asbestos-containing products, from 1962 through 1975.

23 **REQUEST FOR ADMISSION NO. 11:**

24 Admit that YOU did not provide any WARNINGS about the HAZARDS RELATED TO
25 ASBESTOS EXPOSURE with the ASBESTOS CONTAINING MATERIAL YOU SOLD to
26 VOSS at any time from 1962 through 1975.

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1 **REQUEST FOR ADMISSION NO. 12:**

2 Admit that YOU did not provide WARNINGS on any packaging or product itself
3 associated with ASBESTOS CONTAINING MATERIAL YOU provided to VOSS at any time
4 from 1962 through 1975.

5 **REQUEST FOR ADMISSION NO. 13:**

6 Admit that YOU did not provide any WARNINGS about the HAZARDS RELATED TO
7 ASBESTOS EXPOSURE with the ASBESTOS CONTAINING MATERIAL YOU SOLD to the
8 Los Angeles Department of Water and Power at any time from 1962 to 1975.

9 **REQUEST FOR ADMISSION NO. 14:**

10 Admit that YOU did not provide WARNINGS on any packaging or product itself
11 associated with ASBESTOS CONTAINING MATERIAL YOU provided to the Los Angeles
12 Department of Water and Power at any time from 1962 to 1975.

13 **REQUEST FOR ADMISSION NO. 15:**

14 Admit that YOU were aware of the asbestos fiber release that occurred when
15 ASBESTOS CONTAINING MATERIALS YOU manufactured and supplied to VOSS, were cut
16 with a power saw at any time from 1962 through 1975.

17 **REQUEST FOR ADMISSION NO. 16:**

18 Admit that YOU SOLD KUBOTA ASBESTOS CEMENT PIPE to VOSS from 1962
19 through 1975.

20 **REQUEST FOR ADMISSION NO. 17:**

21 Admit that YOU knew VOSS SOLD KUBOTA ASBESTOS CEMENT PIPE in Los
22 Angeles County from 1962 through 1975.

23 **REQUEST FOR ADMISSION NO. 18:**

24 Admit that you had an exclusive distribution agreement with VOSS, under which VOSS
25 SOLD KUBOTA ASBESTOS CEMENT PIPE in California from 1962 through 1975.

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1 **REQUEST FOR ADMISSION NO. 19:**

2 Admit that you had an exclusive distribution agreement with VOSS, under which VOSS
3 SOLD KUBOTA ASBESTOS CEMENT PIPE in Los Angeles County from 1962 through 1975.

4 **REQUEST FOR ADMISSION NO. 20:**

5 Admit KUBOTA ASBESTOS CEMENT PIPE was supplied to VOSS without any
6 printed warnings affixed to the pipe from 1962 through 1975.

7 **REQUEST FOR ADMISSION NO. 21:**

8 Admit KUBOTA ASBESTOS CEMENT PIPE was supplied to VOSS without any
9 printed warning materials from 1962 through 1975.

10 **REQUEST FOR ADMISSION NO. 22:**

11 Admit that between the years 1962 and 1975 YOU knew, of the HAZARDS
12 ASSOCIATED WITH ASBESTOS EXPOSURE.

13 **REQUEST FOR ADMISSION NO. 23:**

14 Admit that KUBOTA ASBESTOS CEMENT PIPE that YOU SOLD TO VOSS
15 CONTAINED CROCIDILITE from 1962 through 1975.

16 **REQUEST FOR ADMISSION NO. 24:**

17 Admit that VOSS stamped KUBOTA ASBESTOS CEMENT PIPE with a logo that
18 consisted of "Voss" on a triangle, and "Kubota" underneath the triangle, from 1962 through
19 1975.

20 **REQUEST FOR ADMISSION NO. 25:**

21 Admit that YOU did not warn users of KUBOTA ASBESTOS CEMENT PIPE to use
22 RESPIRATORY PROTECTION when working with KUBOTA ASBESTOS CEMENT PIPE
23 from 1962 through 1975.

24 **REQUEST FOR ADMISSION NO. 26:**

25 Admit that YOU did not warn users of KUBOTA ASBESTOS CEMENT PIPE to use
26 RESPIRATORY PROTECTION when cutting KUBOTA ASBESTOS CEMENT PIPE from
27 1962 through 1975.
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1 **REQUEST FOR ADMISSION NO. 27:**

2 Admit that YOU did not tell VOSS to warn users of KUBOTA ASBETOS CEMENT
3 PIPE to use RESPIRATORY PROTECTION when working with KUBOTA ASBESTOS
4 CEMENT PIPE from 1962 through 1975.

5 **REQUEST FOR ADMISSION NO. 28:**

6 Admit that YOU did not tell VOSS to warn users of KUBOTA ASBETOS CEMENT
7 PIPE to use RESPIRATORY PROTECTION when cutting KUBOTA ASBESTOS CEMENT
8 PIPE from 1962 through 1975.

9 **REQUEST FOR ADMISSION NO. 29:**

10 Admit that YOU did not require VOSS to warn users of KUBOTA ASBETOS CEMENT
11 PIPE to use RESPIRATORY PROTECTION when working with KUBOTA ASBESTOS
12 CEMENT PIPE from 1962 through 1975.

13 **REQUEST FOR ADMISSION NO. 30:**

14 Admit that YOU did not require VOSS to warn users of KUBOTA ASBETOS CEMENT
15 PIPE to use RESPIRATORY PROTECTION when cutting KUBOTA ASBESTOS CEMENT
16 PIPE from 1962 through 1975.

17 **REQUEST FOR ADMISSION NO. 31:**

18 Admit that YOU do not know the SYSTEM OF DISTRIBUTION VOSS used to
19 distribute KUBOTA ASBESTOS CEMENT PIPE in Los Angeles County, California from 1962
20 through 1975.

21 **REQUEST FOR ADMISSION NO. 32:**

22 Admit that YOU do not know the WORKSITES where VOSS distributed KUBOTA
23 ASBESTOS CEMENT PIPE from 1962 through 1975.

24 **REQUEST FOR ADMISSION NO. 33:**

25 Admit that KUBOTA ASBESTOS CEMENT PIPE that YOU SOLD TO VOSS IN
26 CONTAINED CROCIDILITE from 1962 through 1975.

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1 **REQUEST FOR ADMISSION NO. 34:**

2 Admit that YOU did not warn VOSS of the HAZARDS ASSOCIATED WITH
3 ASBESTOS EXPOSURE from 1962 through 1975.

4 **REQUEST FOR ADMISSION NO. 35:**

5 Admit that YOU knew that consumers were cutting KUBOTA ASBESTOS CEMENT
6 PIPE with power saws from 1962 through 1975.

7 **REQUEST FOR ADMISSION NO. 36:**

8 Admit that from 1962 through 1975, YOU knew that when consumers cut KUBOTA
9 ASBESTOS CEMENT PIPE with power saws that asbestos fiber would be released into the air.

10 **REQUEST FOR ADMISSION NO. 37:**

11 Admit that printed warnings regarding asbestos dust were on the bags of JOHNS-
12 MANVILLE asbestos fiber you were supplied by TOKYO KOGYO BOEKI SHOKAI for the
13 production of KUBOTA ASBESTOS CEMENT PIPE from 1962 through 1975.

14 **REQUEST FOR ADMISSION NO. 38:**

15 Admit that YOU SOLD KUBOTA ASBESTOS CEMENT PIPE to VOSS from 1962
16 through 1975.

17 **REQUEST FOR ADMISSION NO. 39:**

18 Admit that YOU knew VOSS SOLD KUBOTA ASBESTOS CEMENT PIPE in Los
19 Angeles County from 1962 through 1975.

20 **REQUEST FOR ADMISSION NO. 40:**

21 Admit that Rhoda Evans has mesothelioma caused by asbestos exposure.

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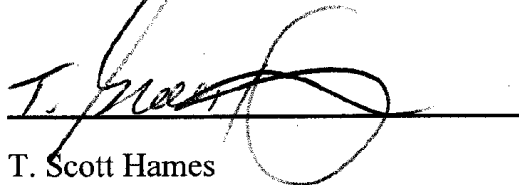
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1 **REQUEST FOR ADMISSION NO. 41:**

2 Admit that YOU contributed to Rhoda Evans' mesothelioma.

3
4 Dated: February 9, 2010

5 **LEVIN SIMES KAISER & GORNICK LLP**

6 
7 T. Scott Hames

8 Attorneys for Plaintiffs
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1 **PROOF OF SERVICE**

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

5 **PLAINTIFFS' SPECIAL INTERROGATORIES TO**
6 **DEFENDANT KUBOTA CORPORATION**

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

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

12 **THOMAS C. CORLESS, ESQ.**

13 **AIDE C. ONTIVEROS, ESQ.**

14 **WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER, LLP**

15 **555 S. FLOWER STREET, SUITE 2900**

16 **LOS ANGELES, CA 90071**

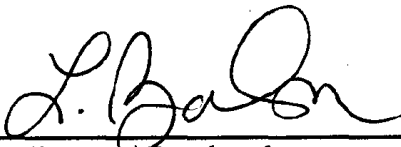
17 ☐ [] By Facsimile to the number(s) as noted below by placing it for facsimile transmittal
18 following the ordinary business practices of Levin Simes Kaiser & Gornick LLP.

19 ☐ [] By Hand Delivery in a sealed envelope, addressed as noted below, through services
20 provided by **WorldWide Messenger** and billed to Levin Simes Kaiser & Gornick LLP.

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

23 ☐ [] On the date executed below, I electronically served the document(s) via LexisNexis File
24 & Serve on the recipients designated on the Transaction Receipt located on the
25 LexisNexis File & Serve website.

26 I certify under penalty of perjury under the laws of the State of California that the
27 foregoing is true and correct and that this proof of service was executed on February 9, 2010 at
28 San Francisco, California.

29 
30 _____
31 Liza Barton, Paralegal

32 Rhoda Evans, et al. vs. A. W. Chesterton Company, et al., Los Angeles County Superior Court, Case No.
33 BC418867