FILE NAME: Orton (ORT)

DATE: 0000

DOC#: ORT006

DOCUMENT DESCRIPTION: Notes on Packett Documents

ROGER PACKETT and DONNA PACKETT started dating in high school in approximately 1969, eventually got married, and were married for 40 years when MRS. PACKETT died from mesothelioma in August 2013.

ROGER PACKETT Trial Preservation Deposition ("PACKETT TP Depo"), attached as Exhibit A to the Rosenthal Declaration, at 7:24-9:7; ROGER PACKETT Discovery/Cross-Examination Deposition ("PACKETT Depo"), attached as Exhibit B to the Rosenthal Declaration, at 45:25-46:4.

Since her first ceramics class at Cerritos College in 1972 or 1973, MRS. PACKETT's main interest and passion over the years was art, and in particular ceramics.

Exhibit A, PACKETT TP Depo, 9:12-10:2.

During their time at Cerritos College, MR. and MRS. PACKETT took ceramics classes together, working in the ceramics room two to three days per week for four semesters, including using the kilns and also cleaning up and assisting the teacher, both during and outside of their classes.

Exhibit A, PACKETT TP Depo, at 9:20-10:13, 12:25-13:6; Exhibit B, PACKETT Depo, at 180:1-7.

As part of their ceramics activities, MR. and MRS. PACKETT used ORTON pyrometric cones to determine the temperature inside the kilns. MR. PACKETT personally observed the name "Orton" on the boxes of cones that he and MRS. PACKETT used at Cerritos College; ORTON cones were the only pyrometric cones available.

Exhibit A, PACKETT TP Depo, at 10:14-11:19; Exhibit B, PACKETT Depo, at 180:24-181:13; see also Defendant ORTON's Response to Plaintiff's Standard Interrogatories, attached as Exhibit C to the Rosenthal Declaration, at 8:27-9:6 (Interrogatory 34 and Response thereto)(stating that ORTON pyrometric cones were sold in boxes that bore the name "Orton").

Pyrometric cones are two-inch-tall, red clay cones that are designed to react at different temperatures. Ceramics makers arranged at least (depending on the size of the kiln) three rows of three cones each inside the kiln. The cones correlate to different temperatures, and as the kiln heats up, the cones react, letting the observer know when the temperature is right to fire their projects.

Exhibit A, PACKETT TP Depo, at 11:20-12:6; Exhibit B, PACKETT Depo, at 177:1-6, 181:8-22.

The Cerritos College ceramics lab had three kilns, and each class had 15 to 20 students. MR. and MRS PACKETT assisted the ceramics teacher, during and after class, including by preparing and loading the kilns to fire the ceramics projects of all the students and by cleaning up the lab.

Exhibit A, PACKETT TP Depo, at 12:11-15; Exhibit B, PACKETT Depo, at 178:8-179:8.

Pyrometric cones are fragile and break easily. They were packaged in vermiculite to minimize breakage, but sometimes they would be broken in the box. One needed to use unbroken cones to make sure they were reliable for determining the kiln temperature.

Exhibit B, PACKETT Depo, at 177:1-18, 189:5-193:1.

To access the cones, as needed to prepare the kiln, MR. and MRS. PACKETT opened boxes of Orton cones and dug through the packing to find unbroken cones. This process took anywhere from a minute up to 15 minutes, because the cones were fragile, and they had to dig carefully through the packing to locate and extract the cones. This process "always stirred up some dust."

Exhibit A, PACKETT TP Depo, at 11:20-14:14; Exhibit B, PACKETT Depo, at 177:7-182:25, 189:5-191:24, 194:13-202:1.

It also was common for some of the vermiculite packing to spill out on the table or floor when they were digging through the boxes. When this occurred, MR. and MRS. PACKETT cleaned it up, usually using a bench brush and dustpan. This also generated dust, as did emptying the dustpan. MRS. PACKETT experienced such dusty conditions "pretty much every time" she used ORTON pyrometric cones, two to three days per week throughout the school year, which was approximately 12 to 16 weeks per year, during the two years that she attended Cerritos College, from 1972 to mid-1974.

Exhibit A, PACKETT TP Depo, at 11:20-14:14; Exhibit B, PACKETT Depo, at 177:7-182:25, 189:5-192:10.

MR. and MRS. PACKETT got the first kiln of their own at MR. PACKETT's parents' home in 1973, and they purchased ceramics supplies, including stocking an inventory of 10 to 12 boxes of ORTON cones. The packing material inside the boxes they purchased had the same appearance as the packing material in the ORTON boxes that they used at Cerritos College. MR. and MRS. PACKETT used the same process there as they did at Cerritos College, to extract the cones from the boxes of packing material and to clean up the spilled packing material. MRS. PACKETT was "often" in dusty conditions generated by these activities in 1973 and 1974.

Exhibit A, PACKETT TP Depo, at 15:2-17:1; Exhibit B, PACKETT Depo, at 184:14-185:9, 194:13-16.

In 1975, the PACKETTS moved to Mammoth Lake Ski Resort in the winters and returned to MR. PACKETT's parents' home in the summers. From approximately 1975 to 1978, the PACKETTS used their kiln approximately two or three times per month during the summers. Each time they used their kiln, they used the supplies they had purchased in 1973, including ORTON cones.

Exhibit A, PACKETT TP Depo, at 33:2-34:22; Exhibit B, PACKETT Depo, at 194:18-202:1.

In 1981, the PACKETTS bought a home in Rancho Cucamonga, where they put in their own ceramic studio and stocked it with a supply of 40 to 60 boxes of ORTON cones, packaged in the same type of packing material as what they had used previously at Cerritos College and at MR. PACKETT's parents' home. MR. and MRS. PACKETT used the same process there as they did previously to extract the cones from the boxes of packing material and to clean up the spilled packing material. MRS. PACKETT was "often" in dusty conditions generated by these activities in 1981 and thereafter.

Exhibit A, PACKETT TP Depo, at 17:2-18:22, 37:22-38:13; Exhibit B, PACKETT Depo, at 185:24-189:16, 194:13-16, 209:15-211:17, 287:1-11.

In 1992, the PACKETTS moved to Oregon, and they moved their ceramic supplies with them, including the remaining boxes of ORTON cones from the 1981 purchase. MR. PACKETT had two boxes left when this lawsuit was filed, and he produced these boxes to plaintiffs' counsel. Plaintiffs' counsel has had them tested, and the test results show that the packing material was vermiculite contaminated with Libby amphibole asbestos.

Exhibit A, PACKETT TP Depo, at 19:14-22:17; Exhibit B, PACKETT Depo, at 183:5-19, 193:13-15; Photographs of ORTON boxes produced by MR. PACKETT, which were attached as Exhibit 5 to the PACKETT Deposition and are field herewith as Exhibit D to the Rosenthal Declaration; and Report of MVA Scientific Consultants titled "Analysis of Vermiculite Packing Material of Orton Pyrometric Cones," attached as Exhibit E to the Rosenthal Declaration.