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HONORABLE CATHERINE SHAFFER
TRIAL DATE: July 16, 2018

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

JUDD M. METZGER, Plaintiff, v. AIR & LIQUID SYSTEMS CORPORATION, et al., Defendants.	NO. 17-2-01942-9 PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS TO LONE STAR INDUSTRIES, INC. **AND RESPONSES THERETO**

Defendant Lone Star Industries, Inc., individually and as successor-in-interest to the Pioneer Sand & Gravel, Inc. (collectively "Lone Star" or "Defendant"), responds to Plaintiffs' First Request For Admissions ("Requests") as follows:

REQUEST FOR ADMISSION

REQUEST NO. 1:

Admit that in 1958 Lone Star knew or should have known of the hazards of asbestos (See Attachment 1).

RESPONSE:

Lone Star admits that there has been testimony provided by one of its corporate

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representatives that because Pioneer Sand & Gravel, Inc. had operations in Washington State in 1958, Pioneer Sand & Gravel would have been aware of the provisions of the Safety Standards for Protection against Occupationally Acquired Diseases issued by the Washington Department of Labor and Industries in September, 1958 and any provisions of those standards that applied to asbestos and would have complied with that law, as reflected in the testimony attached as Attachment A to these responses and incorporated by reference into this response.

REQUEST NO. 2:

Admit that when Lone Star Industries purchased Pioneer Sand and Gravel in 1959, Lone Star was aware that Pioneer Sand and Gravel was involved in the sale and distribution of asbestos-containing products. (See Attachment 2).

RESPONSE:

Lone Star admits that when Lone Star Industries purchased Pioneer Sand and Gravel in 1959 it was aware by virtue of various references in the Vault Document that at times prior to 1959 Pioneer Sand & Gravel was involved in the sale of asbestos-containing products.

REQUEST NO. 3:

Admit that during the period of time Pioneer Sand & Gravel/Lone Star Industries operated as a distributor and distributed asbestos-containing products, you did not warn your customers of the hazards of asbestos. (See Attachment 3)

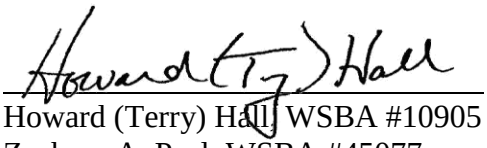
RESPONSE:

Lone Star admits that as a distributor of asbestos-containing products it would have relied on the manufacturers of those products to provide warnings of those products and would have passed any warnings on to the purchaser of the products and further admits that it is unaware of any warning provided to it by any manufacturer of an asbestos-containing product, as reflected in the testimony attached as Attachment B to these responses and incorporated by reference into this response.

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RESPONSES to the foregoing REQUESTS FOR ADMISSION submitted this 28th day of March, 2018.

FOLEY & MANSFIELD, P.L.L.P.

BY: 

Howard (Terry) Hall, WSBA #10905
Zackary A. Paal, WSBA #45077
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Attorneys for Defendant
Lone Star Industries, Inc.

CERTIFICATE OF SERVICE

I, Traci Clark, declare that I am employed by the law firm of Foley & Mansfield, PLLP, 999 Third Avenue, Suite 3760, Seattle, King County, Washington; that I am over 18 years of age and not a party to this action.

[X] **(By E-mail)** I caused the foregoing document(s) to be delivered via e-mail to firms and persons whose email addresses are listed next to the name of the party represented as listed below:

Counsel for Plaintiffs Glenn S. Draper Brian F. Ladenburg BERGMAN DRAPER OSLUND 821 2nd Avenue, Suite 2100 Seattle, WA 98104 service@bergmanlegal.com	***Counsel for Asbestos Corporation Limited*** Mark B. Tuvim Kevin J. Craig GORDON & REES, LLP 701 Fifth Avenue, Suite 2100 Seattle, WA 98104 SEAAsbestos@gordonrees.com
Counsel for General Electric Company Christopher S. Marks Erin P. Fraser TANNENBAUM KEALE LLP 601 Union Street Two Union Square Suite 4253 Seattle, WA 98101 Seattle.asbestos@tktrial.com	***Counsel for Metropolitan Life Insurance Company*** Richard Gawlowski WILSON, SMITH, COCHRAN & DICKERSON 901 Fifth Avenue, Suite 1700 Seattle, WA 98164 Metlifeasbestos@wscd.com
Counsel for Saberhagen Holdings, Inc. Timothy K. Thorson CARNEY BADLEY SPELLMAN, P.S. 701 Fifth Avenue, Suite 3600 Seattle, WA 98104 asbestos@carneylaw.com	

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed on the 28th day of March, 2018 at Seattle, Washington.

Traci Clark, Legal Assistant

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ATTACHMENT A

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

KATHLEEN McCARTHY-BROOKE, Individually and as Personal Representative of the Estate of JAMES M. BROOKE,

Plaintiff,

vs.

LONE STAR INDUSTRIES,

Defendant.

No. 16-2-21021-0 SEA

MORNING SESSION

VERBATIM TRANSCRIPT OF PROCEEDINGS

Heard before the Honorable Judge Timothy A. Bradshaw, at King County Courthouse, 516 Third Avenue, Room E-746, Seattle, Washington

APPEARANCES:

CRAIG SIMS and CHANDLER UDO, representing the Plaintiff;

HOWARD (TERRY) HALL, MELISSA K. ROEDER, and BRIAN SMITH, representing the Defendant.

DATE: 2-22-18

REPORTED BY: KEVIN MOLL, RMR, CRR, CCP

regulation --

MR. SIMS: May I approach, your Honor?

THE COURT: You may.

BY MR. SIMS:

Q. Dr. Brodkin talked to us yesterday about a regulation dealing with asbestos and the permissible exposure limits in the State of Washington that was enacted in 1958.

Can you please tell us everything that Lone Star did to ensure compliance with the 1958 asbestos regulation within Washington state?

A. Well, I don't know the detail, or any details, to be specific, but Lone Star and its subsidiaries, general here -- I shouldn't say generally. They always complied with any state regulations that might be out there, so wherever we were located, we were responsible for complying with all state, federal, locations -- I'm sorry, regulations.

Q. So you would agree that if there were, in fact, a regulation in place, dealing with asbestos hazards and asbestos dust in the State of Washington in 1958, that in 1959 Lone Star would have been aware of such regulation?

A. By operating in the state, they should have been aware of all regulations that the State of Washington had.

ATTACHMENT B

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

KATHLEEN McCARTHY-BROOKE, Individually and as Personal Representative of the Estate of JAMES M. BROOKE, Plaintiff, vs. LONE STAR INDUSTRIES, Defendant.	)	No. 16-2-21021-0 SEA **AFTERNOON SESSION**

VERBATIM TRANSCRIPT OF PROCEEDINGS

Heard before the Honorable Judge Timothy A. Bradshaw, at King County Courthouse, 516 Third Avenue, Room E-746, Seattle, Washington

APPEARANCES:

CRAIG SIMS and CHANDLER UDO, representing the Plaintiff;

HOWARD (TERRY) HALL, MELISSA K. ROEDER, and BRIAN SMITH, representing the Defendant.

DATE: February 22, 2018

REPORTED BY: Joanne Leatiota, RMR, CRR, CCP

Q. You mentioned, I believe, in your testimony in response to some questions from Mr. Sims, that you recalled some material from Quigley that described Insulag as non-injurious. Do you recall that?
A. Yes, sir.
Q. I'm showing you what has been marked as Exhibit 224. Is that what you were referring to?
A. Yes. I had seen that document before.
Q. Is this the type of information that a company like Pioneer Sand & Gravel or Lone Star would receive from a manufacturer where the company was a distributor and then going to resell it?
MR. SIMS: Objection as to speculation, lack of foundation.
THE COURT: You may answer if you know.
A. Well, it appears to be a description sheet of what the product was and what it contained, and it would have -- if it was provided to the people buying it, then they would have had -- they would have had that information.
BY MR. HALL:
Q. You talked in response to Mr. Sims questions about -- about how, as a distributor for products that you did not manufacture, you would rely on the manufacturer, correct?
A. That's correct. Yes, we would.

Q. In terms of knowing what was in the product?
A. Yes.
Q. Knowing what the hazards would be?
A. Yes.
Q. And whatever was received from the manufacturer would be passed on to whoever the product was sold to, correct?
A. That is the general way business works. If you receive a document or papers or -- in today's climate, it's the MSDS report that goes with most everything that goes out with your shipments as to what's in the product, what hazards may or may not occur.
Q. Mr. Sims, I think, talked about and he might have pointed out about various regulations for various states. Do you recall that?
A. Yes.
Q. And he mentioned Washington as being one of those states?
A. I believe he did, yes.
Q. I would like to show you the safety standards from September of 1958. I think I'm going to need a new number for this.

THE CLERK: This would be Defendant's Exhibit Number 1321.

MR. HALL: Your Honor, at this point, for