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1 STEVEN M. HAROWITZ (BAR NO. 71117)

2 harowitz@htlawoffices.com

3 KATHERINE Y. WANG (BAR NO. 215663)

4 wang@htlawoffices.com

5 SARAH E. GILSON (BAR NO. 260263)

6 gilson@htlawoffices.com

7 **HAROWITZ & TIGERMAN, LLP**

8 450 Sansome Street, 3rd Floor

9 San Francisco, California 94111

10 Telephone (415) 788-1588

11 Attorneys for Plaintiffs

12 **SUPERIOR COURT OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

14 **(UNLIMITED JURISDICTION)**

15 DAVID J. PALOMARES,

) Case No.: CGC 10-275463

16 Plaintiff,

17 vs.

) **DECLARATION OF BARRY I.
CASTLEMAN, Sc.D.**

18 AC and S, INC., et al,

19 Defendants.

20 **BACKGROUND AND QUALIFICATIONS**

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25 1. My name is Barry I. Castleman. I received a Bachelor's Degree in Chemical
26 Engineering from Johns Hopkins University 1968. I have a Master's Degree in
27 Environmental Engineering, which was mainly in areas related to air pollution control
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1 from Johns Hopkins University, 1972. I have a Doctor of Science Degree in Health
2 Policy from Johns Hopkins School of Hygiene and Public Health, 1985.

3 2. My professional experience goes back over 30 years in the area of asbestos and
4 other occupational and environmental health problems. My field is occupational and
5 environmental health policy, which is a branch of Public Health, mainly oriented towards
6 the recognition of risk factors and the prevention of disease from industrial activities.

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8 3. The Doctoral degree was awarded for two years of course work, various
9 examinations, and the writing of a doctoral dissertation. The course work was mainly in
10 the areas of toxicology, epidemiology, biostatistics, physiology, and public health policy.
11 These are the tools that are used to understand how the body works and can be damaged
12 by toxic substances, how these effects can be identified by means of various studies of
13 people, studies of animals experimentally exposed, etc.

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15 4. My Doctoral thesis was, Asbestos: An Historical Case Study of Corporate
16 Response to an Industrial Health Hazard, and is largely identical to a book published in
17 1984 by Prentice Hall Law and Business called Asbestos: Medical and Legal Aspects
18 (now in its 5th Edition, 2004). The doctoral thesis is an historical review of the asbestos
19 problem as a public health problem in society worldwide, but mainly in the United States.
20 It encompasses a comprehensive review of medical literature of all kinds, as well as other
21 literature available in libraries and published sources such as government publications,
22 safety magazines, engineering journals, trade magazines, insurance publications,
23 encyclopedias, popular magazines, and newspapers. The doctoral thesis also involved
24 research based on unpublished government records. The government records included
25 workers' compensation claims files where claims had been made by individuals alleging
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1 that they had asbestos-related diseases of the lungs, claims against various companies that
2 were their employers, some of which companies were also manufacturers of asbestos
3 insulation products these individuals has used in the course of their work.

4 5. In addition to published information of all kinds, I examined files, unpublished
5 information available from the U.S. government archives, the archives of scientists and
6 the archives of institutions that had worked for and with asbestos companies.

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8 6. I have also looked at unpublished information which was obtained in legal
9 discovery. This included trade association minutes, corporate documents, and testimony
10 of corporate officials who were associated with asbestos hazards over the years – doctors,
11 plant managers, executives, and other people who were aware of events that transpired.
12 For example, I have reviewed documents obtained from the American Petroleum Institute
13 (“the API”) and the Industrial Health Foundation, formerly known as the Industrial
14 Hygiene Foundation (“the IHF”).

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16 7. In addition to published information and corporate knowledge that came
17 primarily out of legal discovery, I have also interviewed numerous current and former
18 leading officials in the field of industrial medicine and hygiene. They included
19 physicians who were active in the field of occupational medicine, such as Harold Stewart,
20 who first published on asbestosis in 1931, and Alfred Angrist, who first published on
21 asbestos and lung cancer in 1942. They are both pathologists. Another, Dr. Wilhelm
22 Hueper, was a leading United States authority in the field of occupational cancer and first
23 director of the environmental cancer section of the National Cancer Institute. Dr. Harriet
24 Hardy, Dr. Thomas Mancuso, Dr. Gerrit Schepers, and others I interviewed were
25 involved in the area of asbestos and health over the past decades.
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1 8. I have acted as consultant for The National Science Foundation, the European
2 Commission, the Environmental Defense Fund, and the Natural Resources Defense
3 Council. I have provided testimony to United States congressional committees
4 concerning the hazards of asbestos and other toxic substances. I have also testified
5 before United States congressional committees regarding the development of asbestos
6 knowledge. I have been a paid consultant to the Office of Toxic Substances of the United
7 States Environmental Protection Agency and have performed research on environmental
8 asbestos hazards. I have performed consulting work for the United States Occupational
9 Safety and Health Administration. In my research, I have reviewed thousands of
10 publications and documents pertaining to asbestos-related disease and have interpreted
11 and related the contents of the same.

12 9. I have testified as an expert witness in over two hundred (200) cases
13 throughout the nation on issues related to asbestos state-of-the-art and historical
14 development of asbestos knowledge.

15 **KNOWLEDGE OF THE HAZARDS OF ASBESTOS TO HOUSEHOLDS AND**
16 **BYSTANDERS THOROUGH TAKE-HOME CONTACT**

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18 10. In 1913, in the text, Safety, by W.H. Tolman and L. B. Kendall
19 emphasized the importance of having workers remove work clothes before leaving a
20 factory where toxic materials are handled. They advised that ordinary or street-clothes
21 should be taken off and replaced by special suits to be worn during working-hours and
22 that it is not sufficient to put working clothes *over* street clothes; instead, the working
23 clothes must be taken off before breaks or leaving work and exchanged for street clothes.
24 Attached hereto as Exhibit A is a true and correct of the relevant portions of the Tolman
25 and Kendall text.

26 11. In 1917, Lilian Erskine and John Roach, published The Standardization of
27 Working Essentials, in which they recommended that the *minimum* standard where works
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1 were exposed to dust, dirt and poisonous materials, should be provided with a clean place
2 in which to change from street clothes to working clothing. Attached hereto as Exhibit B
3 is a true and correct copy of the relevant portions of this article.

4 12. In 1924's Industrial Health, by George Kober, M.D., LL.D. and Emery R.
5 Hayhurst, A.M., M.D., Ph.D., separate dressing rooms, lockers, bath and wash rooms
6 were recommended for all dusty occupations, that the workmen should take off all their
7 clothing before beginning work, and this is absolutely essential where occupations that
8 involve exposures to poisonous dust. Attached hereto as Exhibit C is a true and correct
9 copy of the relevant excerpts of the Kober and Hayhurst book.

10 13. In 1934's Standard Code of Industrial Hygiene, published for the
11 International Labor Office, cloakrooms, accommodation, and eventually double-baths,
12 separate from the workrooms, were recommended for workers. Attached hereto as
13 Exhibit D is a true and correct copy of the relevant excerpts from the book.

14 14. In 1938's Inspection Manual, published by the United States Department
15 of Labor, it was explained that dressing rooms for the purpose of storing extra clothing,
16 street clothing, or working clothing and to provide a place for the changing of such
17 clothing. Attached hereto as Exhibit E is a true and correct copy of the relevant excerpts
18 from this published report.

19 15. In a 1942 Safety Bulletin issued by the Commonwealth of Pennsylvania,
20 in an article entitled Exhausting Asbestos Fiber and Dust in Wire Insulation Manufacture,
21 Robert L. Houts, industrial chemist, cautioned that if asbestos by-product was allowed to
22 escape into the workroom, it would float to far boundaries of the plant and would not be
23 controllable. Attached hereto as Exhibit F is a true and correct copy of the relevant
24 excerpts from this Bulletin.

25 16. In the same 1942 Safety Bulletin as mention above, another article, by
26 Fred R. Kaimer of General Electric Co., suggested a procedure for distributing and
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1 furnishing clothing, coveralls, underwear, caps and gloves to its workers. The article
2 further stated separate lockers should be maintained for street clothes and work clothes so
3 General Electric's employees can change their clothing before and after work. Attached
4 as Exhibit G is a true and correct copy of the relevant excerpts from this article.

5 17. In the 1943 book, Manual of Industrial Hygiene and Medical Service in
6 War Industries, edited by William M. Gafafer, D.Sc., the provision of separate lockers
7 and dressing rooms for employees whose clothes are exposed to contamination with
8 poisonous, infectious, or irritating material was reiterated. Attached as Exhibit H is a true
9 and correct copy of the relevant excerpts from the book.

10 18. In the 1943 trade publication Chemical Engineering, separate lockers,
11 showers and dressing rooms for employees who worked powder containments were
12 recommended. Attached hereto as Exhibit I is a true and correct copy of the relevant
13 excerpts of the article.

14 19. In 1948, Roy Bonsib, industrial hygienist for Standard Oil, recommended
15 that:

16 Appropriate work clothes, . . . play a prominent part in an
17 industrial worker's health and efficiency. This is especially
18 true when persons are working with more or less toxic or
19 carcinogenic materials . . . many of the more progressive
20 industrial organizations, . . . have for years supplied their
21 employees with work clothing and have instituted a laundry
22 service. "Industrial Work Clothes: Their Provision and
23 Laundering." Roy S. Bosnib. 1948.

24 Attached hereto as Exhibit J is a true and correct copy of the relevant excerpts from the
25 Bonsib report.

26 20. Also in 1948, the Walsh-Healey Act Publication entitled Safety and
27 Health Standards, required that workers who handle hazardous substances be provided
28 facilities to prevent contact of their contaminated clothing with others and also permit dry
and ventilation of the contaminated clothing. Attached as Exhibit K is a true and correct

1 copy of excerpts from the Walsh-Healey Act.

2 21. In 1949, the International Labor Office published Model Code of Safety Regulations for
3 Industrial Establishments for the Guidance of Governments and Industry. The ILO stated that all
4 industrial establishments "shall have suitable and sufficient installations for accommodating the
5 workers' clothes and drying them." It suggests "[a] separate dressing room shall be made available for
6 all employees whose working clothes are exposed to contamination with poisonous, infectious,
7 irritating or radioactive substances and shall be provided with well separated facilities for street and
8 working clothes." Attached hereto as Exhibit L is a true and correct copy of relevant excerpt of the
9 ILO regulation.

10 22. In 1951, an article by Arthur C. Stern entitled Industrial Hygiene in the Paint Factory,
11 which was published by the trade publication "Paint and Varnish", recommended that clean working
12 uniforms and separate lockers for changing from street clothes to work clothes and vice versa should be
13 provided. Attached hereto as Exhibit M is a true and correct copy of the relevant excerpts of this
14 article.

15 23. In 1952, the United States Department of Labor's publication Safety and Health
16 Standards for Contractors Performing Federal Supply Contracts under the Walsh-Healey Public
17 Contracts Act, not only recognizes asbestos dust as a toxin but requires workers who handle or are
18 exposed to harmful material wearing their work clothes and coming into contact with people wearing
19 their street clothes to tell the latter that they are contaminated with harmful substances and that they
20 must permit separate dressing rooms to wash, ventilate and dry the work clothes. The Department of
21 Labor further required separate lunchrooms for workers exposed to harmful materials as well as
22 housekeeping guidelines such as wet downs and drainage of harmful substances. Attached as Exhibit N
23 is a true and correct copy of excerpts from the Department of Labor's publication.

24 24. In 1960, again, the United States Department of Labor's publication Safety and Health
25 Standards for Contractors Performing Federal Supply Contracts under the Walsh-Healey Public
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1 Contracts Act, required "where employees work clothes are exposed to contamination by poisonous,
2 infectious, or irritating material, facilities shall be provided in change rooms so that street and work
3 clothes will not be stored in contact with each other." (Emphasis added.) Attached hereto as Exhibit O
4 is a true and correct copy of the relevant excerpts from the publication.

5 25. In 1960, J.C. Wagner, C.A. Sleggs and Paul Marchand, published the article Diffuse
6 Pleural Mesothelioma and Asbestos Exposure in the North Western Cape Province in the British
7 Journal of Industrial Medicine. Among the mesothelioma victims studied by the authors were 2 cases
8 of bystander exposure. Case 15 was a white female, 42 years of age, born in 1916, who was a
9 housewife who lived near a mine near Johannesburg. Case 16, a white male, 50 years of age, born in
10 1906, went to a village school near an asbestos mine. Attached hereto as Exhibit P is a true and correct
11 copy of the relevant excerpts from this article.
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13 26. In 1964, researchers in Finland reported cases of pulmonary asbestosis in the
14 households of asbestos workers at the large conference held by the New York Academy of Sciences
15 (commonly referred to as the Selikoff Conference held at the Waldorf Astoria). The researchers and
16 others in Germany had previously called attention to pleural changes they had observed in chest X-rays
17 of populations with environmental asbestos exposure.

18 27. In 1965, Muriel Newhouse and Hilda Thompson, published the article Mesothelioma of
19 Pleura and Peritoneum Following Exposure to Asbestos in the London Area in the British Journal of
20 Industrial Medicine. Out of a series of 83 patients from the London Hospital with a diagnosis of
21 mesothelioma, full occupational and residential histories of 76 were taken. Forty or 52.6% gave a
22 history of occupational or domestic, living in the same house as an asbestos worker, exposure to
23 asbestos. On the domestic exposures, a group of nine, seven women and two men, had relatives who
24 worked with asbestos. A wife was exposed through washing her husband's work clothes where he was
25 a docker and came home covered with asbestos dust every evening for 3 or 4 years. The two men of
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1 the group, boys of 8 or 9 years old, lived with sisters who worked at an asbestos factory. Attached as
2 Exhibit Q is a true and correct copy of the Newhouse and Thompson article.

3 26. From 1960 and onward, CertainTeed Corporation employed a Corporate Safety Director
4 by the name of Leon Horowitz. (Trial Testimony of Leon Horowitz, in *Rhoda Evans v. A.W.*
5 *Chesterton*, LASC No. BC418867, at pg. 14:18-15:24; 16:17-17:7; 25:5-25:28; attached hereto as
6 Exhibit R.) During his tenure with CertainTeed, Mr. Horowitz represented and attended meetings on
7 behalf of the company where the risk of cancer from exposure to asbestos was discussed, on an annual
8 basis. (Id. at 20:2-22:12.) In addition to Mr. Horowitz, CertainTeed hired Dr. Myril Shaw as a
9 research asbestos specialist/consultant who joined Mr. Horowitz at a meeting at the Waldorf Astoria in
10 New York where Dr. Selikoff's paper on cancer and asbestos hazards were discussed. (Id. at 24:9-
11 24:15; 26:19-27:4.) In 1964, shortly after Mr. Horowitz's attendance at the Selikoff Conference at the
12 Waldorf Astoria in New York where take-home and neighborhood exposures to asbestos was
13 discussed, Mr. Horowitz issued a private and confidential memorandum to Clifford Sheckler at Johns-
14 Manville (asbestos fiber supplier) stating "You can imagine the reaction to this article at our local
15 plant". (Declaration of Margaret Baumgardner and exhibits attached thereto, attached hereto as
16 Exhibit S.) Further, in 1968, CertainTeed's general counsel, Charles Delong, received a letter from
17 Herbert Ball, who was Johns-Manville's general counsel, attaching a copy of Dr. Selikoff's letter
18 stating the hazards associated with exposure. (Id.) Mr. Ball's letter states "I repeat that as agreed at our
19 meeting on January 3, this information is to be kept strictly on a top executive level. It is definitely not
20 to be distributed to the field." (Id.)

22 27. It is my opinion that during the 1960s, when Mr. Palomares' family members worked at
23 Sequoia Laundry and from 1965 to 1966, when he also worked there, the knowledge of the hazards of
24 asbestos to workers and their households as well as bystander and the prevention of this type of
25 exposure was known and understood. The information regarding contaminated clothing as a hazard
26 was readily available to manufacturers of asbestos-containing products.

28. It is further my opinion that it was recognized during the 1960s that workers should be provided clothing, showers and laundry services whenever they worked with toxic dust in order to prevent exposures to the worker's families and bystanders. Asbestos is such a toxic dust and therefore, it was known and knowable during the 1960s that take home exposures to asbestos dust was a hazard for anyone laundering contaminated clothing and such exposures were preventable. Any company that owned or operated a manufacturing business involving the use of asbestos reasonably should have known in the 1960's that the public, including workers, their families, laundry workers, who came in contact with such clothing were in danger of developing asbestos related disease, including mesothelioma.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this ___ day of January, 2011 in Garrett Park, Maryland.

BARRY I. CASTLEMAN, Sc.D