March 2, 1977

MEMORANDUM TO: G.G. Gabrielson, Jr.
Chairman, Legal-Medical Research Committee
Asbestos Information Association/N.A.

FROM: Wendell B. Alcorn, Jr.

RE: Availability of Services
from Special Counsel

The purpose of this memorandum is to summarize our remarks to the Legal-Medical Research Committee at the meeting held in New York City on Monday, February 28, 1977, concerning the services that are now available from our office.

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1. Data Bank

At the time our firm undertook the project with the guidance of the Committee, initial contacts with corporate representatives and outside counsel were made regarding the status of pending cases. It soon became obvious that there was no central source of retrievable data available to all AIA/NA members. Furthermore, there was a pronounced confusion and lack of comprehension by many companies regarding the various suits in which they were named as defendants. The primary reason for this state of affairs were: (i) defense efforts were controlled by insurance carriers who dealt primarily on an ad hoc basis with local counsel and (ii)

many companies lacked the interal or outside staff to undertake coordination of the rapidly multiplying lawsuits in various jurisdictions.

There were patently adverse effects that flowed from the foregoing conditions: (i) companies experienced great difficulty in coordinating discovery and responses to discovery; (ii) companies experienced difficulty in quantifying potential exposure for financial reporting purposes; and (iii) different stategic and tactical approaches were being followed in the various jurisdictions by the same defendants.

Our firm has compiled data from various repositories of information concerning past and pending court actions. We have concentrated on defining for each case: (i) the phase of industry or chain of distribution involved; (ii) the types of injuries claimed; (iii) the theories of liability and defense that have been advanced; and (iv) examples of discovery and responses on a selective basis. An overriding consideration has been to establish a system that allows quick retrieval of available information.

The data bank is built around the following index keys: (i) jurisdictions in which cases have been brought or are pending; (ii) the particular injuries claimed; (iii) individual and corporate defendants by name; (iv) significant discovery, emphasizing interrogatories and depositions; (v)

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court decisions and orders; and (vi) attorneys of record. To the extent that raw information has been distilled and organized in the data bank, the foregoing index keys allow a maximization of retrieval by non-attorney staff at a rapid rate.

As you know, requests for information from AIA/NA members have been sent with respect to past and pending litigation. As information is received, it is analyzed and integrated into the existing system. This system is expandable to enable flexible integration of new data.

We wish to encourage the members of AIA/NA to comply with our requests for information. The advantages to be gained from completing the data bank on court actions as far as possible include the following: (i) rapid availability of prior case information; (ii) a source to facilitate the determination of consistency of defense positions, or lack thereof; and (iii) a system that provides examples of standardized pleading forms and comparative discovery instruments and papers.

We contemplate that the investment of attorney time, which has been heavy up until about two weeks ago, can be considerably downgraded in connection with future operation of the data bank. The established system allows for clerical integration of data received in the future. The same is true in the case of retrieval.

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The heart of the data bank consists of files established covering the following subjects: (i) individual lawsuits, including significant pleadings and discovery; (ii) files on attorneys representing plaintiffs or defendants; (iii) files on medical experts including curricula vitae, memoranda of interviews, specialties and ratings; (iv) materials relating to the medical portion of the Committee's project; (v) responses to questionnaires transmitted by our firm to AIA/NA members; (vi) form pleadings and discovery; and (vii) source materials of a nature not included in the foregoing.

Members of AIA/NA are invited to direct requests for any information from the data bank to either Miss Carey Gross or myself at the offices of Cadwalader, Wickersham & Taft.

2. State of the Art Defense

Philip Enterline, PhD, has completed a survey of the English language, medical literature on the subject of the relationship between asbestosis/asbestos dust and lung cancer. Facing sheets and abstracts from materials reviewed have been provided to the Committee. Copies of the complete medical studies and reports reviewed by Dr. Enterline are available from our offices. We anticipate providing to

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AIA/NA a legal memorandum on the state of the art as a defense in light of materials already received from Dr. Enterline. Subject to the qualification that additional information is expected from Dr. Enterline, the final piece will be completed by the end of April.

Further study is being made into the subject of asbestosis, itself. Also, Dr. Enterline and his staff are reviewing the problem of the relationship between asbestos exposure and cancers other than carcinoma of the lung.

3. Expert Witnesses

Our firm has interviewed a number of physicians recommended by Hans Weill, M.D., as potential experts. The names of these persons along with curricula vitae have been forwarded to AIA/NA's office for distribution as possible witnesses in pending cases. We would be pleased to discuss the needs of individual companies in acquiring expert testimony on either specific problems relating to legal actions or the state of the medical art defense.

4. Practical Aids to Defense Counsel

As presently established, our files are available to provide information on past and pending cases. The data bank system is set up and awaits responses from individual

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companies as they are received. The materials and answers to the questionnaire sent out by special counsel will be cataloged and the information can be retrieved almost totally by non-attorneys. It is presently contemplated that the only costs in the future on this phase of the project will be primarily non-legal, clerical and duplication costs.

The names and some curricula vitae of expert medical witnesses have been made available through Mr. Mereness' office in Washington. If additional expert witnesses are needed, we have the ability to seek referrals from potential experts already submitted to AIA/NA. Confidential information on "ratings" of the screened expert witnesses is available also.

A number of legal memoranda have been provided to members of AIA/NA. These include memoranda on statutes of limitations, resolution of cigarette-cancer litigation, the doctrine of collateral estoppel and other matters. If any member of AIA/NA desires a copy of any of the foregoing memoranda, simply let us know and we shall provide the requested material.

There is available forms of standardized pleadings and discovery. By the end of April, a memorandum will be distributed detailing the availability of these forms. It should be noted that we have assisted counsel for individual companies in preparing responses to interrogatories.

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5. Conclusion

At present, our firm is prepared to act as a clearing house for data that is supplied by individual company defendants. We are also prepared to assist individual companies in formulating answers and responses to discovery, as well as other pertinent information on asbestos-related disease cases. Each member is invited to contact us whenever the need arises.

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AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

I, Margaret J. Baumgardner, being of full age and first duly sworn do hereby state:

1. I am an Information Processing Coordinator for the Claims Resolution Management Corporation ("CRMC"), a wholly owned subsidiary of the Manville Personal Injury Settlement Trust ("Trust"). The CRMC was created in December 1998 and is staffed by former Trust employees. On January 1, 1999, CRMC began providing claims resolution facility services to the Trust.

2. In that position, I manage a Records Repository which is located at 11000 East 51st Avenue, Denver, Colorado.

3. The Repository contains documents obtained from Manville Corporation and related entities which relate to asbestos litigation. The Trust has managed and operated the Repository from November 28, 1988, the date on which the Manville bankruptcy plan was consummated. These records are maintained at the Repository in its regular course of business.

4. Documents from this Repository were copied for the Simmons Firm after their review of January 14th and 15th, 2001. The copies have been bates labeled as numbers MTS000001 to MTS-12052, and these documents are true and correct copies of documents found at the Repository.

Further affiant sayeth not.

Margaret J. Baumgardner

Subscribed and sworn to before
me this 28th day of January, 2002.

Notary Public

My Commission Expires November 15, 2002
4350 Wadsworth Boulevard
Wheat Ridge Colorado 80033

MARY ELLEN YOUNG NOTARY PUBLIC STATE OF COLORADO