PLAINTIFF'S EXHIBIT

FD-559

MORGAN, MELHUISH, MONAGHAN & SPIELVOGEL

(JACOB SCHNEIDER - SCHNEIDER & SCHNEIDER - SCHNEIDER & MORGAN 1910-1969)

COUNSELLORS AT LAW

301 S. LIVINGSTON AVENUE
LIVINGSTON, NEW JERSEY 07039
(201) 994-2500

NEW YORK OFFICE
MORGAN, MELHUISH, MONAGHAN & MEYER
2 WORLD TRADE CENTER SUITE 1844
NEW YORK, NEW YORK 10048
(212) 938-5900

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CONSUMER TECHNICAL AFFAIRS

Gentlemen:

The United States Sixth Circuit Court of Appeals has decided INA v. Forty-Eight Insulations, Inc. Each of the carriers who provided liability insurance to Forty-Eight Insulations issued an occurrence contract, and the problem faced by the court was which policies applied to asbestosis claims. The court in a preface states that in discussing liability it will be discussing asbestosis, not lung cancer or mesothelioma.

The court states that it, in coming to its conclusions, will follow the law of Illinois and New Jersey, the states which control the applicable contracts since all of the policies were issued in Illinois, except the Liberty Mutual which was issued in New Jersey.

INA and other carriers adopted a manifestation theory. That is when the symptoms of the condition became obvious, coverage attaches. The other carriers adopted the exposure theory (actually there is more than one exposure theory advanced by the different insurance companies).

Judge Keith for the majority states that in each case a hearing could be held to determine at which point the build up of asbestos resulted in the body's defenses being overwhelmed and at that point asbestosis could truly be said to occur. From then on all companies who insured the manufacturer would be treated as being on the risk. The court rejects this theory for practical reasons such as cost and states that there is a need to arrive at an "administratively managable interpretation of the insurance policies."

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