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IN THE SUPREME COURT OF THE STATE OF MONTANA

IN RE ASBESTOS LITIGATION,)	Cause No. AC 17-0694
)	
<i>Consolidated Cases.</i>)	
)	

DEFENDANT MARYLAND CASUALTY COMPANY’S JOINDER IN ARROWOOD’S MOTION TO DECONSOLIDATE

COMES NOW attorney Kelly J. C. Gallinger, counsel of record for Defendant Zurich American Insurance Company, successor by merger to Maryland Casualty Company (“MCC”) in the Thirteenth Judicial District Court, Yellowstone County Court case styled *BNSF Railway Company v. Arrowood Indemnity Company, Maryland Casualty Company and Continental Casualty Company*, DV 14-0225, and hereby joins in Defendant Arrowood Indemnity Company’s (“Arrowood”) Motion to Deconsolidate and Return to Montana Thirteenth Judicial District Court, Yellowstone County. MCC adopts and incorporates Arrowood’s arguments herein.

The *BNSF Railway Company vs. Arrowood Indemnity Company, Maryland Casualty Company, and Continental Casualty Company*; Montana Thirteenth Judicial District Court, Yellowstone County, Cause No. DV-14-225 (Montana Declaratory Action) is a declaratory judgment action seeking a judicial determination of the Defendants’ duties and obligations under a series of insurance policies written for BNSF. The Montana Declaratory action does not seek

the recovery of monetary damages for personal injury caused by asbestos exposure. Rather, the Montana Declaratory action involves the interpretation and application of various insurance contracts and the parties are seeking relief in the form of a judicial declaration of the duties and obligations owed pursuant to those insurance contracts. The contractual nature of the claims in the Montana Declaratory Action make it markedly different from the personal injury tort claims presented in all of the other actions that have been consolidated into the asbestos court.

Moreover, the Montana Declaratory Action had been stayed by Judge Moses, prior to its consolidation into the asbestos court, due to the progression of a concurrent declaratory judgment action that is proceeding in Tarrant County, Texas. (Texas Declaratory Action). There is no need for this Court to expend valuable judicial resources to engage in potentially duplicative pre-trial discovery and motions in Montana, pending the outcome of the Texas Declaratory Action.

Accordingly, Defendant MCC joins in Arrowood's Motion to Deconsolidate and Return to the Montana Thirteenth Judicial District Court, Yellowstone County.

DATED this 25th day of January, 2018.

BROWN LAW FIRM, P.C.

BY /s/ Kelly J. C. Gallinger
Kelly J. C. Gallinger
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CERTIFICATE OF SERVICE

I, Kelly J. C. Gallinger, hereby certify that I have served true and accurate copies of the foregoing **DEFENDANT MARYLAND CASUALTY COMPANY'S JOINDER IN ARROWOOD'S MOTION TO DECONSOLIDATE** to the following on the 25th day of January 2018:

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Electronically signed by Justine Loughridge on behalf of Kelly Gallinger
Dated: 01-25-2018