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IN THE ASBESTOS CLAIMS COURT FOR THE STATE OF MONTANA

<p>IN RE ASBESTOS LITIGATION,</p> <p><i>Consolidated Cases</i></p>	<p>Cause No. AC 17-0694</p> <p>PLAINTIFFS' RESPONSE TO DEFENDANTS' MASTER DISCOVERY REQUESTS</p>
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The following are Libby Plaintiffs' responses and objections to Defendants' Master Discovery Requests. Plaintiffs note that these are **not** "Master Discovery Requests" as contemplated by the Court's directives. Instead, these requests constitute **intensive discovery focused on an individual plaintiff**, which should properly follow the "Master Discovery Requests." Further, the Plaintiffs' Proposed Fact Sheet contains the basic information necessary to provide extensive case evaluation information in a timely manner for all plaintiffs. To the extent that Defendants seek this discovery for each Libby Plaintiff, Plaintiffs object because

disclosing this information for the over 1,700 Libby Plaintiffs is unnecessary considering the Fact Sheet disclosures, is oppressive and unduly burdensome, and subverts the purpose of timely disclosures.

OBJECTIONS

These responses are provided with the understanding that these extensive plaintiff-specific discovery requests will be provided only for lead cases that are designated to move forward to trial. Objections have been minimized with the understanding set forth above, and Plaintiffs reserve the right for further objections if this discovery is intended for each Libby Plaintiff. Plaintiffs objections are incorporated into Defendants' original document and noted by **“OBJECTION”**.

1. Generalized Objection regarding Sub-Parts

Plaintiffs object to the use of compound discovery requests. Rule 33 of the Montana Rules of Civil Procedure provides that discovery request limits are inclusive of discrete sub-parts, and therefore subparts are counted independently. A widely utilized test to determine what constitutes a subpart is found in *Kendall v. GES Exposition Services, Inc.*, which states a sub-part is inclusive of the original question when, “the subparts are ‘logically or factually subsumed within and necessarily related to the primary question...’ 174 F.R.D. 684, 685 (D.Nev.1997) The sub-part stands alone as a discrete question when “... the first question is primary and subsequent questions are secondary to the primary question. Or, can the subsequent question stand alone?” *Id.* Many of the requests contain multiple questions that does not meet the “factually subsumed” test. These compound questions should be bifurcated into their own separate Discovery Request, and are identified as “compound” in individual discovery requests

below. Because of the inclusion of discrete sub-parts in many of these requests, the discovery questions proposed by Defendants far exceed the limit set by this Court.

2. Specific Objections

MONTANA ASBESTOS CLAIMS COURT

<p>v.</p> <p>Plaintiffs,</p> <p>Defendants.</p>	<p>CAUSE NO.</p> <p>MASTER DISCOVERY REQUESTS TO PLAINTIFF</p>
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I. DEFINITIONS AND INSTRUCTIONS

1. “You,” “your,” and “yours” means the Plaintiff, or Plaintiff’s Decedent and/or any other immediate family members and counsel for Plaintiff. To the extent claims are being made regarding secondary exposure, “you,” “your,” and “yours” includes the primarily exposed individual(s).

OBJECTION: Responding Party object to the definition of “you,” “your,” and “yours” that includes knowledge held by counsel for Plaintiffs, as it calls for information that is confidential and privileged from disclosure pursuant to the attorney-client privilege and/or the attorney work product doctrine. Furthermore, the disclosure of information known or held by counsel and family members is oppressive, unduly burdensome and improperly seeks information protected by personal rights to privacy.

2. “Document” means any matter which is written, recorded, or graphic, including originals, copies of originals, and prior drafts, whether produced, reproduced, or stored in any manner, including but not limited to paper, film, tapes, belts, disks, computer devices, or any

other information storage system available to you, or any other tangible item. “Document” shall also include all non-identical copies of a document, such as copies of a document bearing handwritten notations.

OBJECTION: Responding Party objects to the extent this definition calls for confidential and privileged disclosure pursuant to the attorney-client privilege and/or the attorney work product doctrine.

3. “Identify” as used herein with reference to a document means to state: (a) the date; (b) the author; (c) the recipient; (d) the type of document, letter, memorandum, telegram, chart, etc.; (e) the number of pages; (f) its present location; and (g) its present custodian.

4. “Identify” as used herein with reference to an individual, person, corporation, or other entity, means to state his, her, or its: (a) full name; (b) present or last known business and residence addresses; (c) present or last known business and home phone numbers; and (d) present or last known position, business affiliation, employer, and title.

5. “Identify” as used herein with reference to an oral communication means to: (a) identify all parties to the communication; (b) state the date of the communication; (c) state in detail the substance of the communication; and (d) identify all documents that confirm or refer to the communication.

6. As used herein, the word “or” should not be read so as to eliminate any part of any Interrogatory or Request for Production, or as permitting the option of responding to only part of any Interrogatory or Request for Production, by answering as to only one of the terms separated by “or”; rather, whenever applicable, “or” should be read as having the same meaning as the word “and”.

7. This Discovery is of an ongoing nature, and should you acquire additional

information responsive to this Discovery, the answers shall be updated to include the additional information as provided in the Montana Rules of Civil Procedure.

8. This Discovery seeks answers based on all information available to you, however it was obtained, and any and all information in your actual or constructive possession or knowledge, or in the actual or constructive possession or knowledge of your attorneys, agents or representatives.

OBJECTION: Responding Party objects to this definition to the extent it asks for information or knowledge held by counsel for Plaintiffs that is confidential and privileged from disclosure pursuant to the attorney-client privilege and/or the attorney work product doctrine. Furthermore, the disclosure of information known or held by counsel is oppressive and unduly burdensome.

9. If you assert any privilege as to any information responsive to this Discovery, describe the subject matter and date of the information, the type of document (if any) containing the information, all person(s) giving and all person(s) receiving the information, and the ground(s) upon which you allege that the information is privileged or otherwise protected from discovery. If you assert a privilege with respect to a part of the Discovery, respond to the remainder of the Discovery and furnish all information over which you are not claiming the privilege.

10. If a refusal to answer an Interrogatory or Request for Production is stated on the grounds of burdensomeness, identify the documents needed to be searched, the location of the documents, and identify each person or entity that must be consulted.

OBJECTION: Responding Party objects to this definition as it is oppressive and unduly burdensome.

11. If any of this Discovery cannot be answered by you in full, answer to the extent

possible, specifying the reason for your inability to answer the remainder and stating whatever information, knowledge or belief you do have concerning the unanswered portion. Where a partial admission or denial is appropriate, admit those portions of the discovery that can be admitted.

12. If you object to any of this Discovery as duplicative, identify the source from which the discovery can be obtained.

II. INTERROGATORIES

INTERROGATORY NO. 1: Please identify your full name; any other name under which you have been known; Social Security number; Driver's license number and State of issuance; date and location of birth; gender; Health Insurance Claim Number (HICN); whether you are enrolled, or expect to be enrolled within the next thirty (30) months, in the Medicare program.

INTERROGATORY NO. 2: List all addresses, including city and state, where you have resided during your lifetime and the years of residence for each.

INTERROGATORY NO. 3: For any and all marriages please identify the full name and last known address of each spouse; the date and place of each marriage; the date each marriage was terminated; how each marriage was terminated; and if you are currently married, please state your spouse's date of birth, spouse's current employer(s) and the amount of spouse's wages or salaries. Also, please state the names, ages, and present addresses of each of your children.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to the part of the request regarding the Spouses current employer and wages, as it calls for information that improperly seeks information

protected by personal rights to privacy and is not **relevant**, nor reasonably calculated to lead to the **discovery of relevant** or **admissible evidence** as consortium claims are not pursued.

INTERROGATORY NO. 4: State the name, address, date of birth and family relationship of each of your next of kin and identify in the same fashion any family member who claims to be dependent upon you for support, in whole or in part.

OBJECTION:

- a. Responding Party object to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to the term “next of kin” as it is **vague** and ill defined.

INTERROGATORY NO. 5: State all schools including vocational programs you have attended since elementary/grade school up to the highest grade level you have completed, together with the date completed, name and location of the school you attended, and any degree or certificate you received from each school.

INTERROGATORY NO. 6: If the Plaintiff or his/her spouse has ever been arrested and/or convicted of a crime including any crime charged that was ultimately dismissed, remanded, nolo prosequi, or resulted in a field release, please describe the nature of the offense, whether it was a felony or misdemeanor (excluding traffic violations), the jurisdiction and case number of the offense, and the location of incarceration, along with time sentenced and served, if applicable.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to the part of the request regarding both Plaintiff's and their

spouses criminal history, as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of** relevant or **admissible evidence**

- c. Responding Party objects to this request as it is **oppressive** and **unduly burdensome**, **overbroad** in both **time and scope**, and improperly seeks information protected by **personal rights to privacy**.

INTERROGATORY NO. 7: List the name, address and telephone number of each of Plaintiff's employers from the time he/she started working until the present (including any service in a branch of the United States Military and work at W.R. Grace); and for each employment: please state the dates of employment; how the employment was obtained; the name, address and telephone number of Plaintiff's immediate supervisor(s); the capacity or capacities in which Plaintiff worked during the term of employment; the reason for termination of Plaintiff's employment, including, but not limited, to whether such termination was for health related reasons, and whether such termination was voluntary or involuntary, and whether any discharge from any military service was honorable or on some other basis; state whether you contend you were exposed to asbestos or asbestos-containing products or materials (including but not limited to equipment or other machinery which may have contained asbestos-containing component parts in the course of this employment for each location, job site, or facility); state the location, job site, and facility which you contend resulted in your exposure to asbestos; state the type of product or materials, including brand name, trade name or manufacturer, suppliers, and distributors which you contend resulted in your exposure to asbestos-containing products for each location, job site, or facility and whether you, your attorneys or agents have any samples of these products or packaging for them; name and last known address of any co-workers at these sites; your earnings for each period of employment; for each job site identify the name and address of

any companies, other than your employer, working with asbestos or asbestos-containing material there and all trades present; and did you or any co-worker ever file a complaint, report, or call attention to asbestos or asbestos-containing materials, dust, gases, or fumes present at any location or job site?

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as it pertains to how employment was obtained, the reason for termination, and employment earnings, as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of relevant** or **admissible evidence**, and objects to the extent that the Responding Party does not have this information in their possession.
- c. Responding Party objects to this request, as it pertains to whether “any co-worker ever filed a complaint, report, or called attention to asbestos or asbestos-containing materials, dust, gases, or fumes present at any location or job site”, as the information is **oppressive** and **unduly burdensome**, as well as **overbroad** in both **time and scope**.
- d. Responding Party objects to this request with regard to the disclosure of this information for a Plaintiff employed by a Libby Defendant as **the information requested is equally available** by the Libby Defendant employer.

INTERROGATORY NO. 8: Identify by name, address and phone number every fact witness or co-worker from whom Plaintiff intends to offer testimony at the trial of this matter and describe a summary of their anticipated testimony including the dates worked at the facility and the witnesses’ job duties.

OBJECTION:

a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.

b. Responding Party objects to this request as a premature disclosure of witnesses.

Disclosure of this information will be in conjunction with the Court's scheduling order, and all witnesses will be listed at the proper time listed therein.

INTERROGATORY NO. 9: Have you ever testified, given a deposition, or a written statement regarding any exposure to asbestos or any toxic substance you were exposed to or any working conditions at any of your worksites? Alternatively, are you or your attorneys aware of any statements made by any of the other parties to this litigation or by other persons, signed or unsigned, oral, written or court reported, who claim to have knowledge of the subject matter of this litigation? If so, then for each such testimony or statement state the name and address of the person making the statement; the name and address of the person to whom the statement was given; the names and addresses of all persons who witnessed the giving of the statement; whether a copy or transcription of the statement exists; and the name and address of all persons who possess a copy of transcription.

OBJECTION:

a. Responding Party objects to this request as it is **oppressive** and **unduly burdensome**, as well as **overbroad** in both **time and scope**. To the extent that Defendants have been a party to previous litigation regarding the subject matter at hand, **the information requested is equally available** to Defendants.

b. Responding Party objects to this request to the extent it calls for information that is **confidential and privileged** from disclosure pursuant to the **attorney-client privilege**

and/or the **attorney work product doctrine**.

INTERROGATORY NO. 10: If you ever filed any other lawsuit, made a claim for worker's compensation benefits, or made any other claims for monetary compensation in which you claimed damages, including but not limited to claims made to asbestos bankruptcy trusts, please state the basis for your claim(s), where the lawsuit or claim was filed, the name(s) of the attorney who represented you, the cause number for the case, and the results of each lawsuit or claim including the amount of money paid to you or pledged or committed to be paid to you as a result of said lawsuit and/or claim.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- c. Responding Party objects to this request, as it pertains to "any other lawsuit" not involving asbestos exposure, as **oppressive and unduly burdensome, overbroad** in both **time and scope**, and is not **relevant**, nor reasonably calculated to lead to the **discovery of relevant or admissible evidence**.

INTERROGATORY NO. 11: With respect to any claim of asbestos exposure not related to your employment identified in your answers to Interrogatory No. 7, including but not limited to, home-remodeling, and automotive maintenance, please state the nature of each activity you were performing that resulted in your alleged exposure to asbestos; the time frame in which you performed each activity; the location(s) at which you performed each activity; the type of product used in each activity, including brand name, trade name, and/or manufacturer and place of purchase, through which you contend you were exposed to asbestos and whether you, your attorneys, or agents have any samples of these products or packaging from them; and identity of

any persons who were present during such possible exposure.

INTERROGATORY NO. 12: If you contend you were exposed to asbestos through contact with another individual(s) or the individual(s)'s clothing (hereinafter "secondary exposure"), as a result of the individual's employment or non-employment activities, please state the name and relationship to you of each individual through whom you alleged secondary exposure; whether that individual ever worked at W.R. Grace; the Social Security number of the other person and address of that person; the nature of all employment or non-employment activities the individual was performing that resulted in their contact with asbestos-containing products, including for each individual identified: the time frame in which each activity was performed; the location(s) at which each activity was performed; and the type of product used in each activity, including the brand name, trade name, and manufacturer, through which you contend you were exposed to asbestos; and the manner Plaintiff alleges secondary exposure occurred.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to the part of the request regarding "the Social Security number of the other person and address of that person", as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of relevant** or **admissible evidence**, and improperly seeks information protected by **personal rights to privacy**.

INTERROGATORY NO. 13: If you have ever been exposed to benzene, toluene, diesel exhaust, creosote, coal dust, fiberglass, welding fumes, silica, or any other chemicals, please state the work site(s) and/or location(s) of each exposure, the dates of exposure to each, and whether you have sought any medical treatment for exposure to any of these substances. If you

have sought medical treatment, please list the name and location of the medical provider and the dates of the treatment.

INTERROGATORY NO. 14: If you have ever participated in any training, safety course, seminar, class, or other informational program addressing occupational exposure to airborne dust, fibers, or particles such as asbestos, silica, coal dust, fiberglass, welding fumes, diesel fumes, or benzene fumes, please state the date of each training class and a detailed description of the subject matter of each training class or program.

INTERROGATORY NO. 15: Did you have or know of any warnings, signs, notices, bulletins, pamphlets or memoranda posted at any of your places of employment concerning asbestos health hazards or work practices or procedures to be followed when working with, around, or near asbestos-containing materials? If so, state the address and location of the place of employment; the tasks the Plaintiff performed while using such product in areas where Plaintiff contends that asbestos dust or other substances were in the air; the reasons the Plaintiff contends asbestos dust was in the air in areas where Plaintiff performed the tasks identified above; the names, addresses and telephone numbers of all individuals who worked with or around the Plaintiff at each job site during the time period Plaintiff used such product when exposed to asbestos or other substances; and whether you utilized any respiratory protection device to protect you from said exposure and identify all such respiratory protective devices and the entity that provided them.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as it is **overbroad** in both **time and scope**.
- c. Responding Party objects to this request as it pertains to “the reasons the Plaintiff

contends asbestos dust was in the air” as this calls for a **legal conclusion** and/or **expert opinion**.

- d. Responding Party objects to this request as it pertains to “the names, addresses and telephone numbers of all individuals who worked with or around the Plaintiff at each job site” as this information is **duplicative** of the information sought in Interrogatory 8.

INTERROGATORY NO. 16: If you contend that you were exposed to asbestos from any asbestos-containing friction products at any place of employment or through your own personal use, please state the names and addresses of all places of employment where you contend such an exposure took place; the dates at each place of employment; your job title at each place of employment; your job responsibilities at each place of employment; a complete description of any work performed by you which you contend caused an asbestos exposure to you; a complete description of any work performed by others which you contend caused an asbestos exposure to you; a list of the specific parts or components you worked with which you contend are or were asbestos-containing friction products; the frequency of your exposure to each specific asbestos-containing friction products; identity of your immediate supervisor(s) for each place of employment; identify of all of your co-workers at each place of employment; identity of any other person with knowledge of your alleged exposure to asbestos- containing friction products at each place of employment; and state whether any safety equipment or protective devices, including but not limited to engineering controls or respiratory protective equipment, with respect to asbestos were provided to you or your co-workers and, if so, a description of the equipment/devices and state whether any safety equipment or protective devices, including but not limited to engineering controls or respiratory protective equipment, with respect to asbestos were required to be used by you or your coworkers and, if so, a description of the

equipment/devices and the date on which they were first required; and whether any safety equipment or protective devices, including but not limited to engineering controls or respiratory protective equipment, with respect to asbestos were used by you or your co-workers and, if so a description of the equipment/devices and when they were first used.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as largely **duplicative** of Interrogatory 8 above regarding employment details and co-workers.
- c. Responding Party objects to the term “asbestos-containing friction products” as it is **vague** and **ambiguous** in this context.
- d. Responding Party objects to this request as it pertains to the section regarding the requirement to use “engineering controls or respiratory protective equipment” by Plaintiff and co-workers as this calls for a **legal conclusion** and/or **expert opinion**, as well as the portion of the request regarding the use and description of “engineering controls or respiratory protective equipment” by co-workers as **oppressive** and **unduly burdensome**, as well as **overbroad** in both **time and scope**.

INTERROGATORY NO. 17: If you or any family member from you contend you had secondary exposure have ever been a member of any labor union at any time during your employment history, please state the name of the union, the years of membership, and the positions you or any family member from you contend you had secondary exposure held in the union.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as it is unintelligible.
- e. Responding Party objects to this request regarding “any family member” union affiliation as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of** relevant or **admissible evidence**, and is **oppressive** and **unduly burdensome**, as well as **overbroad** in both **time and scope**.

INTERROGATORY NO. 18: Please specify each disease or condition that you currently suffer from or have suffered from in the past including but not limited to any condition from which you suffer which was allegedly caused by exposure to asbestos and with respect to each disease specified, please state the approximate date upon or period within which you first developed symptoms or signs of the disease; describe the symptoms or signs that developed; the date on which you were first diagnosed as having the disease; the medical treatment provider who made the diagnosis; the nature of the test and/or procedure from which the diagnosis was made; describe the circumstances precipitating the consultation at which the diagnosis was made; and the date you first suspected said disease was in any way related to asbestos exposure, if applicable; and the names and addresses of each medical provider from whom you have received treatment.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as **oppressive** and **unduly burdensome** as

Defendants currently have medical records, or will obtain an authorization for release of medical records. These medical records speak for themselves and substantively capture the complex issue of a Plaintiff's medical condition. The full medical records will allow Defendants to obtain, pursue, and most importantly interpret, whatever medical records they wish, without filter from Plaintiff or counsel. Furthermore, elaboration on the medical records pertaining to "the nature of the test and/or procedure from which the diagnosis was made" is more appropriately addressed by a medical provider.

INTERROGATORY NO. 19: Please identify by name and last known address, each practitioner of any healing art who has examined, attended, treated, or prescribed medication for you at any time subsequent to your first exposure to asbestos, including but not limited to, anyone who provided consultation in connection with any disease specified in your answers to these interrogatories, indicating the date, place, and nature of such services or medication.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as it is **oppressive** and **unduly burdensome**, **overbroad** in both **time and scope**, and improperly seeks information protected by **personal rights to privacy**. This request seeks information from the date of first exposure, which for many may extend to childhood. Furthermore, Plaintiffs will continue to provide the name and address for providers related to asbestos-disease and treatment, as well as information regarding primary care providers. Defendants currently have medical records, or will obtain an authorization for release of medical records.

These medical records speak for themselves and substantively capture the complex issue

of a Plaintiff's medical condition. The full medical records will allow Defendants to obtain, pursue, and most importantly interpret, whatever medical records they wish, without filter from Plaintiff or counsel.

- c. Responding Party objects to this request to the extent it is **duplicative** of Interrogatory 18.

INTERROGATORY NO. 20: If you have ever been diagnosed as having or been treated for any form of cancer or any asbestos-related disease or condition, including but not limited to asbestosis and pleural thickening, please describe each such type or form of cancer and/or asbestos related disease or condition and its location; state the date on and place at which you were diagnosed as having each such type or form of cancer; identify the person who made each such diagnosis; describe all treatments administered; state the date on or over which and the place at which such treatments were administered; identify each person who administered such treatments; describe the results thereof; and identify each document which reflects any such diagnosis or treatment or any other such asserted facts.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as Plaintiffs will continue to provide the name and address for providers related to asbestos-disease and treatment, as well as information regarding primary care providers. Defendants currently have medical records, or will obtain an authorization for release of medical records. These medical records speak for themselves and substantively capture the complex issue of a Plaintiff's medical condition. The full medical records will allow Defendants to obtain, pursue, and

most importantly interpret, whatever medical records they wish without filter from Plaintiff or counsel.

- c. Responding Party objects to this request to the extent it is **duplicative** of Interrogatory 18.

INTERROGATORY NO. 21: If you have ever undergone pulmonary function tests for any reason, please state the date and locations of each test, the results of each the test, and the physicians administering each test.

OBJECTION:

- a. Responding Party objects to this request as Defendants current have, or will obtain an authorization for release of medical records related to treatment of asbestos related disease, including any pulmonary function testing. These medical records speak for themselves and substantively captures the complex issue of a Plaintiff's medical condition. The full medical records will allow Defendants to obtain, pursue, and most importantly interpret, whatever medical records they wish, without filter from Plaintiff or counsel.
- b. Responding Party objects to this request to the extent it is **duplicative** of Interrogatory 18.

INTERROGATORY NO. 22: Itemize all damages, including medical and non- medical expenses, you seek in this lawsuit by type of damage and dollar amount and describe the method you used to calculate each amount. Include in your answer a detailed description of the type or nature of each damage you claim to have suffered; the factual basis for each damage; and identify of all documents that support each damage.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are

not logically or factually subsumed within and necessarily related to the primary question.

- b. Responding Party objects to this request as it calls for a **legal conclusion** and/or **expert opinion**. For lead cases, Plaintiffs anticipate a Life Care Plan developed by expert witnesses. This report will be timely provided per the scheduling order and will be responsive to this informational request.

INTERROGATORY NO. 23: If you have ever smoked cigarettes, cigars, pipes, or used other tobacco products, please indicate the date you first smoked any tobacco, the type of tobacco product you used, the particular brand used, the amount used or smoked per day, and how many years you used or smoked tobacco products.

INTERROGATORY NO. 24: If Plaintiff has ever resided in the same household with a person who was or is employed in an occupation involving exposure to industrial chemicals, coal dust, mineral or metallic dust, cotton fiber dust, fiberglass, airborne fibers, particles, or dust, farm chemicals (including herbicides, fungicides, mildicides, and insecticides) or the vapors, fumes, or airborne particles of toxic substances including cigarette smoke, please identify the person, particular substance that the person was exposed to, and the periods in which Plaintiff resided with that person.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.

INTERROGATORY NO. 25: Please state the date Plaintiff first contacted an attorney concerning the condition made the basis of this suit, the date which any of these parties first had an attorney-client relationship with the attorneys in this case, and the first date any of these

parties had an attorney-client relationship with the attorneys who represent Plaintiff in any other case Plaintiff has filed regarding or relating to injuries caused by exposure to asbestos.

OBJECTION:

- a. Responding Party objects to this request as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of relevant** or **admissible evidence**.
- b. Responding Party objects to this request to the extent it calls for information that is **confidential and privileged** from disclosure pursuant to the **attorney-client privilege** and/or the **attorney work product doctrine**. Furthermore, Responding Party objects to this request as this discovery is interposed to harass counsel, and interfere with the attorney-client relationship.

INTERROGATORY NO. 26: If you have at any time made a claim for or received any health or accident insurance benefits, workers' compensation payments, social security benefits, disability benefits, pension, accident compensation payments, or Veteran's disability compensation awards, related to or as the result of the asbestos-related injury which is the subject of this lawsuit or for any other personal injury or condition, please state the names and addresses of your employer(s) at the time of each claim; the name of the board, tribunal, or superior officer before which or to whom the claim or claims were made or filed; the date the claim was made or filed; the claim, file or other number by which the claim was identified; and the amount of benefits, awards, or payments.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.

- b. Responding Party objects to the part of the request regarding “any other personal injury or condition”, as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of relevant or admissible evidence** and is **oppressive and unduly burdensome**, and **overbroad** in both **time and scope**.

INTERROGATORY NO. 27: If you have ever applied for or participated in any of the following programs, please include the dates on which you applied and were accepted (if applicable), all testing done, all studies you’ve participated in, and all amounts or payments that were made by the program on your behalf. Those programs are:

- Any program established under the Affordable Care Act, including any pilot program or other program sometimes referred to as the Libby Pilot Program;
- The Montana Asbestos Screening and Surveillance Activity Program or other program referred to as “MASSA;”
- The medical screening program administered by the Agency for Toxic Substances and Disease Registry sometimes referred to as “ATSDR;”
- Any study or research project directed or conducted by the Center for Asbestos Related disease (commonly referred to as CARD);
- The Federal Libby Asbestos Specialty Healthcare program (sometimes referred to as the “FLASH program”);
- The Federal Libby Asbestos Specialty Healthcare 2 program (sometimes referred to as the “FLASH 2 program”);
- The Libby Epidemiology Research Program or other program (sometimes referred to as the “LERP;”) or
- The Libby Medical Program or Grace Medical Program

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.

- b. Responding Party objects to this request to the extent that Plaintiff does not have in their possession, or does not have access to this information. To the extent that these records are contained within the medical records, Defendants currently have medical records, or will obtain an authorization for release of medical records. These medical records speak for themselves.
- c. Responding Party objects to this request as **oppressive** and **unduly burdensome**.

INTERROGATORY NO. 28: Please identify all other sources and amounts for any payments of any kind you have received for your alleged asbestos-related disease.

OBJECTION:

- a. Responding Party objects to this request as **overly broad** in scope, and **vague** regarding the meaning of “sources.”

INTERROGATORY NO. 29: If you have retained or employed an expert witness who may be expected to render an opinion at trial, then as to each expert state his name, address, telephone number and employer or other business affiliation; the subject matter on which the expert is expected to testify; his conclusions and opinions; the basis for each conclusion or opinion; his qualifications; whether the expert has prepared any written reports, communications, correspondence, or documents of any kind, and a description of each such document; the date each said expert was retained; whether said expert has been retained by you or your attorneys on prior occasions; and a description of each such instance in which the expert was previously retained, including each lawsuit name and number, where the suit was filed, and the subject matter of the expert’s opinion.

OBJECTION:

- a. Responding Party objects to this request as experts in particular cases have yet to be

identified and/or retained. This requests also exceeds the bounds of MRCP 26(b)(4).

Experts, their opinions, and the basis of their opinions will be timely provided in lead cases per the Court's scheduling order and in accordance with MRCP 26(b)(4).

- b. Responding Party objects regarding the improper questions about "whether said expert has been retained by you or your attorneys on prior occasions" as this line of questioning is intended to harass counsel, and is **unduly burdensome** and **oppressive**.

INTERROGATORY NO. 30: If any of your immediate family members have been diagnosed with cancer or asbestos related disease, please state their relationship to you, their diagnosis, the health care provider who diagnosed them, and their date of diagnosis.

OBJECTION:

- a. Responding Party objects to the part of the request regarding family members "health care provider who diagnosed them, and their date of diagnosis", as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of relevant or admissible evidence** and is **oppressive** and **unduly burdensome, overbroad** in both **time and scope**. This request improperly seeks information that potentially compromises protected by **personal rights to privacy** and may violate HIPPA and other medical privacy laws.

III. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce copies of any and all medical reports and records, in your possession, care, custody, or control concerning any examinations or treatments received as a result of the injuries alleged in this matter.

OBJECTION:

- a. Responding Party objects to this request as **oppressive** and **unduly burdensome**.

Defendants currently have possession of Plaintiff's medical records, or will timely obtain an authorization for release of medical records.

REQUEST FOR PRODUCTION NO. 2: All documents reflecting any information regarding Plaintiff's work history, including names of employers, names of co-workers, dates of employment, places of employment, and/or job description, including but not limited to copies of all Plaintiff's payroll, personnel, or union records.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as **oppressive** and **unduly burdensome**. To the extent employment records are sought, Defendants currently have possession, or will obtain an authorization for release of, a report of Social Security Earnings history and Employment records.
- c. Responding Party objects to this request as **duplicative** of the Interrogatories regarding employment history and co-workers.
- d. Responding Party objects to this request with regard to the disclosure of this information for a Plaintiff employed by a Libby Defendant as **the information requested is equally available** by the Libby Defendant employer.
- e. Responding Party objects to the part of the request regarding "union records", as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of** relevant or **admissible evidence**.

REQUEST FOR PRODUCTION NO. 3: Please produce all pathology specimens, chest x-

rays, CAT, MRI, NMR, or PET scans or other records, documents or tangible things generated or maintained by you or any medical practitioner or medical facility which treated or cared for Plaintiff for any type of condition, illness, sickness, injury or disease, including but not limited to, any condition allegedly caused or contributed to by any silica and/or asbestos-containing product.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as **oppressive** and **unduly burdensome** and **overly broad**. Many of these records are likely contained within the medical records and are not in possession of Plaintiff. Furthermore, Defendants currently have possession of Plaintiff's medical records, or will timely obtain an authorization for release of medical records.

REQUEST FOR PRODUCTION NO. 4: Any and all documents relating to any testing or sample collection done, performed, or collected by the U.S. Environmental Protection Agency or any other governmental entity, including any contractors or subcontractors from a governmental entity at your residence(s) or any place(s) of business in which you are an owner (in part or in whole).

OBJECTION:

- a. Responding Party objects to the extent that these records are not in the possession of Plaintiff. Plaintiff will provide a release for Defendants to obtain this information if requested.

REQUEST FOR PRODUCTION NO. 5: Any and all applications for disability or pension benefits which Plaintiff has filed at any time.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request with regard to the disclosure of this information for a Plaintiff employed by a Libby Defendant as **the information requested is equally available** by the Libby Defendant employer.
- c. Responding Party objects to this request regarding pension records as this information is not **relevant**, nor reasonably calculated to lead to the **discovery of** relevant or **admissible evidence**.
- d. Responding Party objects to the extent that disability records are not in the possession of Plaintiff. Plaintiff will provide a release for Defendants to obtain this information if requested.

REQUEST FOR PRODUCTION NO. 6: Any and all awards or denials of disability and retirement benefits rendered on an application referred to in the preceding request.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request with regard to the disclosure of this information for a Plaintiff employed by a Libby Defendant as **the information requested is equally available** by the Libby Defendant employer.

- c. Responding Party objects to this request regarding pension records as this information is not **relevant**, nor reasonably calculated to lead to the **discovery of** relevant or **admissible evidence**.
- d. Responding Party objects to the extent that disability records are not in the possession of Plaintiff. Plaintiff will provide a release for Defendants to obtain this information if requested.

REQUEST FOR PRODUCTION NO. 7: Copies of any and all written statements, or transcriptions of any oral statements, taken from you and/or prospective witnesses in this lawsuit concerning any and all matters connected with or arising from or out of the accident and injuries made the basis of your Complaint.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request to the extent that it calls for information that is **confidential and privileged** from disclosure pursuant to the **attorney-client privilege** and/or the **attorney work product doctrine**.
- c. Responding Party objects to this request as **oppressive** and **unduly burdensome, overly broad**, and **vague** as to the meaning of “accident.”

REQUEST FOR PRODUCTION NO. 8: Copies of any and all photographs, drawings, maps or any other reproductions which you intend to use as evidence in the trial of this case.

OBJECTION:

- a. Responding Party objects to this request as a premature disclosure of trial exhibits, and demonstrative exhibits to be used at trial of this matter. Disclosure of this information

will be timely produced in conjunction with the Court's scheduling order, and all exhibits to be utilized at trial will be listed at the proper time listed therein.

REQUEST FOR PRODUCTION NO. 9: Copies of any and all photographs which show your injuries, or which you intend to use as evidence in the trial of this case.

OBJECTION:

- a. Responding Party objects to this request as a premature disclosure of trial exhibits, and demonstrative exhibits to be used at trial of this matter. Disclosure of this information will be timely produced in conjunction with the Court's scheduling order, and all exhibits to be utilized at trial will be listed at the proper time listed therein.
- b. Responding Party objects to this request to the extent it is **duplicative** of RFP 8.

REQUEST FOR PRODUCTION NO. 10: All exhibits which the Plaintiff may use or which are being considered for use as exhibits or evidence at the trial of this case.

OBJECTION:

- a. Responding Party objects to this request as a premature disclosure of trial exhibits, and demonstrative exhibits to be used at trial of this matter. Disclosure of this information will be timely produced in conjunction with the Court's scheduling order, and all exhibits to be utilized at trial will be listed at the proper time listed therein.
- b. Responding Party objects to this request to the extent it is **duplicative** of RFPs 8 and 9.

REQUEST FOR PRODUCTION NO. 11: Any documents describing or evidencing benefits Plaintiff received from a government agency, public corporation, or private organization for the injuries made the basis of this lawsuit.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary

question.

- b. Responding Party objects to this request as **oppressive** and **unduly burdensome, and overly broad** in scope.

REQUEST FOR PRODUCTION NO. 12: Any and all documents which evidence the date on which the alleged accidents occurred, including calendars, journals, notes or any other documents.

OBJECTION:

- b. Responding Party objects to this request as **overly broad** in scope, and **vague** regarding the meaning of “alleged accidents.”

REQUEST FOR PRODUCTION NO. 13: Copies of any and all tax reporting records (both state and federal), and any other documents which indicate your income, compensation, wages or earnings for the past five (5) years.

OBJECTION:

- a. Responding Party objects to the part of the request as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of relevant or admissible evidence** where there are no claims as to loss of earnings or loss of future economic capacity.

REQUEST FOR PRODUCTION NO. 14: Please produce copies of any payroll stubs, invoices for services rendered, or any other type of document that reflects any earnings you may have had between the date of this injury and through the present date.

OBJECTION:

- a. Responding Party objects to the part of the request as it calls for information that is not **relevant**, nor reasonably calculated to lead to the **discovery of relevant or admissible evidence** where there are no claims as to loss of earnings or loss of future economic

capacity.

- b. Responding Party objects to this request for years of earning records as **oppressive** and **unduly burdensome, and overly broad** in time and scope.
- c. Responding Party objects to this request as it is **duplicative** of the release requested in RFP 19.

REQUEST FOR PRODUCTION NO. 15: Please produce copies of any and all documents produced or provided to any expert, including but not limited to a vocational expert, and any reports reflecting opinions procured from these individuals or companies.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as experts in particular cases have yet to be identified and/or retained and exceeds the bounds of MRCP 26(b)(4) . Reliance documentation of experts will be timely provided in lead cases per the Court’s scheduling order and in accordance with MRCP 26(b)(4).
- c. Responding Party objects to this request to the extent it calls for **confidential and privileged** information pursuant to the **attorney work product doctrine**.
- d. Responding Party objects to this request as it is **vague, lacks specificity, and overly broad in time and scope**. The production of “all documents produced or provided to any expert” without limitation is **unduly burdensome**.

REQUEST FOR PRODUCTION NO. 16: Please produce copies of any vocational or functional capacity evaluations or any documents which provide an impairment rating.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as experts in particular cases have yet to be identified and/or retained and exceeds the bounds of MRCP 26(b)(4). Reliance documentation of experts will be timely provided in lead cases per the Court's scheduling order and in accordance with MRCP 26(b)(4).
- c. Responding Party objects to this request to the extent it calls for **confidential and privileged** information pursuant to the **attorney work product doctrine**.
- d. Responding Party objects to this request as it is **vague, lacks specificity, and overly broad in time and scope**.

REQUEST FOR PRODUCTION NO. 17: As to any expert witnesses retained by you, please produce a copy of the following:

- (a) any documents, data, articles, and/or other information considered by the witness in forming the opinions;
- (b) any exhibits to be used as a summary of or support for the opinions;
- (c) the qualifications of the witness (curriculum vitae);
- (d) a list of all publications authored by the witness within the preceding ten years; and
- (e) a list of any other cases in which the witness has testified as an expert at a potential hearing or by deposition, such list to include the style of the case and the case number.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as experts in particular cases have yet to be identified and/or retained and exceeds the bounds of MRCP 26(b)(4). Reliance documentation of experts will be timely provided in lead cases per the Court's scheduling

order and in accordance with MRCP 26(b)(4).

- c. Responding Party objects to this request to the extent it calls for **confidential and privileged** information pursuant to the **attorney work product doctrine**.
- d. Responding Party objects to this request as it is **vague** regarding “any documents, data, articles, and/or other information considered by the witness in forming the opinions” as many experts have years of professional and academic experience that assists in the development of an opinion. The production of all “information” without limitation is **unduly burdensome**.

REQUEST FOR PRODUCTION NO. 18: For all claims or lawsuits, including but not limited to any claims made to asbestos bankruptcy trusts, identified in responses to Interrogatories, please provide any and all related documents, including correspondence, demand letters, medical records, expert reports, complaints, proofs of loss, proofs of claim, questionnaires, informational and discovery responses.

OBJECTION:

- a. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- b. Responding Party objects to this request as **oppressive** and **unduly burdensome** in scope of the information sought.
- c. Responding Party objects to this request as the information sought is **overly broad** (i.e. the request is not limited to asbestos related injuries.)

REQUEST FOR PRODUCTION NO. 19: Please execute and return each of the authorization forms attached to these Requests as “Exhibit A”.

OBJECTION:

Plaintiff objects to the number and scope of the releases and authorizations sought by Defendants. Defendants request that Plaintiffs **sign** and **notarize** the following sixteen authorizations and releases:

1. Authorization for Release of Criminal Records
2. Authorization for Release of Payroll Records
3. Authorization for Release of State Tax Information
4. Authorization for Release of Workers Comp
5. Authorization - Educational and Vocational
6. Authorization - Union Records
7. Blank Bankruptcy Authorization
8. Medical Records Release 2018
9. IRS Request for earnings
10. Medicare HIPPA form 2018
11. MT State Tax Request form
12. Request Pertaining to Military Records
13. SSA Consent for Release of Info
14. SSA Request for Earnings
15. VA Request and Authorization
16. VA Request and Consent

This request for sixteen releases is **overly broad, oppressive, unduly burdensome** and seeks information that is neither **relevant** nor likely to lead to **admissible evidence**. The relevance of each release must be done on a case-by-case basis (for example, and IRS Request for earnings are not relevant in a case without a claim for lost wages.) Moreover, the releases are asked to be notarized which adds to the unnecessary burden and cost to Plaintiffs and the oppressive task for counsel to facilitate execution.

Responding Party objects in particular to the relevancy of Defendants' requests for release of criminal records, payroll records, tax information, and union records. Specific objections to the disclosure of this information has been listed above. Furthermore, many of these releases are **duplicative** as the information or documentation sought and are requested in the Interrogatories and Requests for Production. For example, information regarding a Workers Compensation claim are found in Interrogatory 10 and 26, and the production of information related to that claim in Request for Production 18. Finally, many of these releases and records are already in the possession of Defendants.

Illustrative of the unduly burdensome nature of this request, prior to the formation of this Court, the previous request for releases and authorizations submitted by BNSF for current claims were limited to the following:

1. Authorization for Release of Records of Asbestos Bankruptcy Trust and Claims Resolution Facilities
2. Authorization for Medical Records Release
3. Request Pertaining to Military Records
4. Request for Social Security Earnings Information
5. Social Security Administration, Consent for Release of Information
6. Request for Copy of Tax Return
7. Authorization for Release of Workers Compensation Records

REQUEST FOR PRODUCTION NO. 20: Please provide copies of all statements, invoices, or bills which you have incurred or paid for such medical, non-medical, or other expenses.

OBJECTION:

- d. Responding Party objects to this request as **compound**, as it includes sub-parts that are not logically or factually subsumed within and necessarily related to the primary question.
- e. Responding Party objects to this request as it is **vague, lacks specificity, and overly**

broad in time and scope.

- f. Responding Party objects to this request as **oppressive** and **unduly burdensome** as Defendants currently have Plaintiff's medical records, or will timely obtain an authorization for release of medical records.

REQUEST FOR PRODUCTION NO. 21: Please provide copies of any and documents which support or on which you relied or were referenced in preparing your answers to the Interrogatories set forth above.

OBJECTION:

- a. Responding Party objects to this request to the extent it calls for information that is **confidential and privileged** from disclosure pursuant to the **attorney-client privilege** and/or the **attorney work product doctrine**.
- b. Responding Party objects to this request as it is **oppressive** and **unduly burdensome**, as well as **overbroad in scope**.

Respectfully submitted this 2nd day of March, 2018.

McGARVEY, HEBERLING, SULLIVAN
& LACEY, P.C.

By: /s/ Roger Sullivan
ROGER SULLIVAN
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ETHAN WELDER
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CERTIFICATE OF SERVICE

I, Roger M. Sullivan, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Other to the following on 03-02-2018:

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Dated: 03-02-2018