

## AFFIDAVIT OF SERVICE

05/16/2018

<b>Case:</b>	<b>Court:</b>	<b>County:</b>	<b>Job:</b> 2289546	<i>Ed Smith</i> CLERK OF THE SUPREME COURT STATE OF MONTANA
<b>Plaintiff / Petitioner:</b>		<b>Defendant / Respondent:</b>		
<b>Received by:</b> Williams Investigations		<b>For:</b> Knight Nicastro LLC		
<b>To be served upon:</b> Jackson Garrison, R/A for CARD Clinic				

I, Blazej Masiak, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein. I declare under penalty of perjury that the foregoing is true and correct.

**Recipient Name / Address:** Jackson Garrison, R/A for CARD Clinic, POE: First Montana Bank: 504 Mineral Ave , Libby, MT 59923

**Manner of Service:** Registered Agent, May 14, 2018, 2:29 pm MDT

**Documents:** Subpoena Duces Tecum (Received May 13, 2018 at 7:40pm MDT), Subpoena To Testify At a Deposition in a Civil Action (Received May 13, 2018 at 7:40pm MDT)

**Additional Comments:**

1) Unsuccessful Attempt: May 14, 2018, 2:13 pm MDT at CARD CLINIC: 214 E 3rd St, Libby, MT 59923  
Individual didn't actually work here

2) Successful Attempt: May 14, 2018, 2:29 pm MDT at POE: First Montana Bank: 504 Mineral Ave , Libby, MT 59923 received by Jackson Garrison, R/A for CARD Clinic.

**Fees:** \$190.00



05/15/2018

Blazej Masiak  
21639

Date

Williams Investigations  
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630-362-0374

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Attorney for the State of Montana

IN THE ASBESTOS CLAIMS COURT OF THE STATE OF MONTANA

IN RE ASBESTOS LITIGATION,  <i>Consolidated Cases</i>	Cause No. AC 17-0694  THIS DOCUMENT RELATES TO: <i>MacDonald v. International Paper, et al.,</i> <i>Cascade County Cause No. DV-16-549</i> Judge John Parker
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**SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION**

Jackson Garrison, Registered Agent  
**TO: Center for Asbestos Related Disease ("CARD Clinic")**  
**214 E. 3rd Street**  
**Libby, MT 59923**

*Testimony:* **PLEASE TAKE NOTICE** that pursuant to Montana Rules of Civil Procedure 45 and 30(b)(6), **YOU ARE COMMANDED** to appear at the time, date and place set forth below to testify at a deposition to be taken in this civil action. Pursuant to Rule 30(b)(6), you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the matters set forth in Attachment A.

**PLACE:** CARD CLINIC, 214 E. 3rd Street, Libby, Montana 59923

**DATE AND TIME OF DEPOSITION:** June 28, 2018, 9:00 a.m., continuing through June 29, 2018.


The deposition will be taken before an official court reporter or some other person authorized to administer oaths on the topics set forth in Attachment A. These depositions may be videotaped, and Defendant provides notice to the CARD Clinic, Plaintiff and the other parties to this action that the deposition(s) may be used at the time of trial in the above-captioned matter

The following provisions Montana Rule of Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; and Rule 45(d), relating to your protection as a person subject

to a subpoena.

Date:

May 11, 2018

/s/   
Nadia H. Patrick

/s/Jennifer M. Studebaker  
Jennifer M. Studebaker

/s/Edward J. Longosz  
Edward J. Longosz

/s/Dale L. Cockrell  
Dale L. Cockrell

The name, address, e-mail address, and telephone numbers of the attorneys, who issue or request this subpoena, are: Representing BNSF Railway Company is Chad Knight, 929 Pearl Street, Suite 350, Boulder, CO 80302, [knight@knightnicastro.com](mailto:knight@knightnicastro.com), 303-815-5869; Representing International Paper Company are Jennifer Studebaker, 210 East Capitol Street Suite 2200, Jackson, MS 39201-2375, [Jennifer.Studebaker@formanwatkins.com](mailto:Jennifer.Studebaker@formanwatkins.com), 601-973-5983; Jean Faure, 1314 Central Avenue, Great Falls, MT 59403, [jfaure@faureholden.com](mailto:jfaure@faureholden.com), 406-452-6500; Representing Maryland Casualty Company are Edward J. Longosz, 1717 Pennsylvania Avenue, NW, 12<sup>th</sup> Floor, Washington, D.C. 20006, [elongosz@eckertseamans.com](mailto:elongosz@eckertseamans.com), 202-659-6600; and Representing the State of Montana is Dale Cockrell, P.O. Box 7370, Kalispell, MT, 59904-7370, [dcockrell@mcgalaw.com](mailto:dcockrell@mcgalaw.com), 406-751-6000.

Notice to the person who issues or requests this subpoena: If this subpoena commands the production of documents, electronically stored information, or tangible things

before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Mont. Rule of Civ. P. 45(a)(4)

**Rule 45(c). Protection of persons subject to or affected by subpoenas.**

- (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.
- (2)
  - (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.
  - (B) Subject to subparagraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying, or any person affected thereby, may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, and to any affected person who has served written objection, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.
- (3)
  - (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it
    - (i) fails to allow reasonable time for compliance; or
    - (ii) requires in the case of a deposition or production prior to hearing or trial, a person to travel beyond the 100 mile radius provided in subparagraph (b)(2) of this rule; or
    - (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
    - (iv) subjects a person to undue burden.
  - (B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**Rule 45(d). Duties in responding to subpoena.**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and
- (3) shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

## **CERTIFICATE OF SERVICE**

I hereby certify that I have served true and accurate copies of the foregoing Subpoena to  
Testify at a Deposition in a Civil Action to the following on the 12<sup>th</sup> day of May, 2018:

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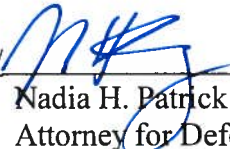
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<p><b>Lewis Roca Rothgerber Christie</b> 1200 Seventeenth Street Suite 3000 Denver, CO 80202</p>	<p><i>Michael D. Plachy</i> <b>mplachy@lrrc.com</b></p>	Honeywell International
	<p><i>Conor A. Flanigan</i> <b>cflanigan@lrrc.com</b></p>	
<p><b>Michael Crill</b> P.O. Box 145</p>	<p><i>Michael Crill</i> <b>MAIL ONLY</b></p>	Self- Represented

Rimrock 86335		
<b>Christopher S. Marks</b> 520 Pike St., Suite 2200 Seattle, 98101	<i>Christopher S. Marks</i> <b>MAIL ONLY</b>	Volkswagen of America, Inc.

/s/   
Nadia H. Patrick  
Attorney for Defendant BNSF

/s/Jennifer M. Studebaker  
Jennifer M. Studebaker  
Attorney for International Paper Company

/s/Edward J. Longosz  
Edward J. Longosz  
Attorney for Maryland Casualty Company

/s/Dale L. Cockrell  
Dale L. Cockrell  
Attorney for the State of Montana

## **ATTACHMENT “A”**

### **CARD CLINIC 30(b)(6) DEPOSITION TOPICS**

Pursuant to Montana Rules of Civil Procedure, Rule 30(b)(6), the deponent must have knowledge and shall be able to testify concerning the following subject matter:

1. CARD Clinic’s organizational structure from inception to date. This includes, but is not limited to, its business purpose; corporate structure; identities of its owners and board of directors; task allocation; management and coordination of personnel; reporting hierarchy; organization of employees into divisions, departments, or teams; and distribution of decision-making authority.
2. The names, job titles, job descriptions, qualifications and responsibilities of all present and former CARD Clinic employees who did any of the following: took patient histories; performed pulmonary function tests; analyzed patient data; reviewed patient diagnostic imaging; and diagnosed patients.
3. Content on CARD Clinic’s website: [www.libbyasbestos.org](http://www.libbyasbestos.org).
4. CARD Clinic’s participation in any studies or research activities [published or unpublished].
5. CARD Clinic’s criteria for diagnosing patients with any form of asbestos-related disease.
6. CARD Clinic’s use of medical diagnostic equipment and supplies to diagnose and/or treat asbestos-related disease.
7. CARD Clinic’s maintenance and calibration of medical diagnostic equipment that it uses to diagnose and/or treat asbestos-related disease.
8. International Labour Office [“ILO”] International Classification of Radiographs of Pneumoconioses.

9. American Thoracic Society [“ATS”] guidelines and criteria for diagnosing non-malignant asbestos-related disease.
10. International Classification of High-Resolution Computed Tomography for Occupational and Environmental Respiratory Diseases.
11. CARD Clinic’s CT Scoring Method.
12. CARD Clinic quality assurance or improvement programs.
13. Card Clinic’s procedure for taking patient exposure and occupational histories.
14. Eligibility criteria for state or federal benefits that are available to patients diagnosed with an asbestos-related disease.
15. CARD Clinic assistance to patients applying for state or federal benefits based on an asbestos-related disease diagnosis.
16. Medicare Pilot Program for Asbestos-Related Disease.
17. “Libby Disease,” “Libby Amphibole Disease,” and/or “lamellar pleural thickening.” This includes, but is not limited to: diagnostic criteria; studies and research; any positive and/or critical response from the scientific and medical community; etiology; treatment modalities; mechanism of pathogenesis; and radiological appearance.
18. Identification of CARD Clinic referral sources.
19. CARD Clinic advertising.
20. CARD Clinic’s use of CT Scans, HRCT Scans, and X-Rays to diagnose asbestos-related disease, and the criteria used to determine when to refer an individual for a CT or HRCT Scan.
21. CARD Clinic involvement with the W.R. Grace & Co. litigation and bankruptcy proceedings.
22. Funding for all studies produced and/or published by CARD Clinic related to asbestos-related disease.

23. Relationships between CARD Clinic and law firms and/or lawyers who have represented or are representing patients of CARD Clinic, including but not limited to referral relationships, personal relationships, sponsorships, donor/donee relationships, and litigation.
24. Any payment, consideration, or remuneration that CARD Clinic received from law firms and/or lawyers who have represented or are representing patients of the CARD Clinic. This includes, but is not limited to: payment for expert opinions; referral fees; donations; funding for research and/or published studies; and purchasing of equipment or supplies.
25. CARD Clinic communication with any law firm and/or lawyer who represents or has represented CARD Clinic patients, or that otherwise relates to asbestos-related disease.
26. CARD Clinic's finances. This includes, but is not limited to information about its: financial reports; tax returns; grants; funding; employee salaries; invoices; accounts payable and receivable; and bank records.
27. Any and all fundraising activities, including but not limited to the Big Sky Bash.
28. Card Clinic patient record keeping system and document retention policy.
29. Medical books, treatises, publications, journals, manuals, magazines, pamphlets, and brochures inside the Card Clinic.
30. Card Clinic communication with the Environmental Protection Agency ["EPA"].
31. CARD Clinic rates of diagnosis for asbestos-related diseases.
32. Identities of all persons who currently serve or have served on CARD Clinic's Volunteer Community Board.
33. Minutes, records, and meetings of the CARD Clinic Volunteer Community Board.
34. CARD Clinic Research Rally.
35. CARD Clinic's relationship with the Mount Sinai School of Medicine.



36. CARD Clinic Newsletters.
37. CARD Clinic Long Distance Screening Program.
38. CARD Clinic Asbestos Screening Program.
39. CARD Clinic's price list.
40. CARD Clinic's relationship with Asbestos Health Care Project, Inc. ["AHCP"].
41. Libby Epidemiology Research Program ["LERP"].
42. CARD Clinic Short-Term Lung Cancer Screening Program.
43. Libby Medical Plan QSF Trust.
44. Federal Libby Asbestos Specialty Healthcare ["FLASH"] Program I and II.
45. Libby Asbestos Medical Plan ["LAMP"] I and II.
46. Grace Libby Medical Plan.
47. Libby CARD Database.
48. CARD Foundation.
49. CARD Clinic communication with Alan C. Whitehouse, MD.
50. CARD Clinic communication with the Agency for Toxic Substances and Disease Registry ["ATSDR"].
51. CARD Clinic communication with any department, professor, or author at any of the following: University of Montana, Montana State University, and Idaho State University.
52. Federal government grants requiring CARD Clinic screening programs to have an external peer review program
53. CARD Clinic external peer review program as required by federal government grants, and the associated peer review sessions, including but not limited to the identities of the panel members, their qualifications, and how they were selected; any training or

education they received from CARD Clinic personnel or affiliates; and any consultation that occurs or has occurred between the panelists and CARD on specific patients, cases, or Libby-related conditions.

54. CARD Clinic communications with Cabinet Peaks Medical Center and other clinics, hospitals, and medical providers, regarding medical findings or diagnoses of patients.

55. CARD Clinic communication with Brad Black, M.D.

56. CARD Clinic relationship and communication with Alan Whitehouse, M.D.

## **CERTIFICATE OF SERVICE**

I, Chad M. Knight, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Other to the following on 05-16-2018:

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