

AFFIDAVIT OF SERVICE

05/16/2018

Case:	Court:	County:	Job: 2289543	<i>Ed Smith</i> CLERK OF THE SUPREME COURT STATE OF MONTANA
Plaintiff / Petitioner:		Defendant / Respondent:		
Received by: Williams Investigations		For: Knight Nicastro LLC		
To be served upon: Gail Burger, R/A for CARD Foundation				

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: Gail Burger, R/A for CARD Foundation, Home: 302 California Ave, Libby, MT 59923

Manner of Service: Registered Agent, May 14, 2018, 3:39 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, 2:12 pm MDT at CARD CLINIC: 214 E 3rd St, Libby, MT 59923
Individual didn't actually work here

2) Successful Attempt: May 14, 2018, 3:39 pm MDT at Home: 302 California Ave, Libby, MT 59923 received by Gail Burger, R/A for CARD Foundation.

Fees: \$190.00



05/15/2018

Blazej Masiak
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Date

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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

TO: Gail Burger, Registered Agent
Center for Asbestos Related Disease Foundation ("CARD Foundation")
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 Defendants provides notice to the CARD Foundation, 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.

Date: May 11, 2018

/s/ 
Nadia H. Patriek

/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 issues or requests this subpoena, are: Representing BNSF Railway Company is Chad Knight, 929 Pearl Street, Suite 350, Boulder, CO 80302, 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, 601-973-5983; Jean Faure, 1314 Central Avenue, Great Falls, MT 59403, jfaure@faureholden.com, 406-452-6500; Representing Maryland Casualty Company are Edward J. Longosz, 1717 Pennsylvania Avenue, NW, 12th Floor, Washington, D.C. 20006, elongosz@eckertseamans.com, 202-659-6600; and Representing the State of Montana is Dale Cockrell, P.O. Box 7370, Kalispell, MT, 59904-7370, dcockrell@mccgalaw.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 12th day of May, 2018:

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/s/Jennifer M. Studebaker
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/s/Dale L. Cockrell
Dale L. Cockrell
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ATTACHMENT A

CARD FOUNDATION 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 Foundation'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 Foundation 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. Funding for all studies produced and/or published by CARD Foundation related to asbestos-related disease.

4. The relationship between CARD Foundation and law firms and/or lawyers that have represented or are currently representing patients of CARD Clinic, including but not limited to referral relationships, personal relationships, sponsorships, donor/donee relationship, and litigation.

5. Any payment, consideration, or remuneration that CARD Foundation 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.

6. The fundraising activities of CARD Foundation, including but not limited to solicitation of donations, fundraising events, and any other means by which the CARD Foundation funds itself.

7. CARD Foundation communication with any law firm and/or lawyer who represents or has represented CARD Clinic patients, or that otherwise relates to asbestos-related disease.

8. CARD Foundation'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.

9. Any and all fundraising activities, including but not limited to the Big Sky Bash.

10. CARD Foundation record keeping system and document retention policy.

11. Medical books, treatises, publications, journals, manuals, magazines, pamphlets, and brochures inside the CARD Foundation.

12. CARD Foundation communication with the Environmental Protection Agency ["EPA"].

13. The manner in which the funds raised by or donated to the CARD Foundation are utilized, and any accounting of the same.

14. Any communication, correspondence, discussion or documentation between the CARD Foundation and law firms and/or lawyers representing patients of the CARD Clinic, and the manner in which such documents, records or writings are prepared, received, recorded and kept in the usual course of business, including but not limited to electronically stored information/databases.

15. Identities of all persons who currently serve or have served on CARD Foundation's board.

16. Minutes, records, and meetings of the CARD Foundation.

17. CARD Foundation newsletters.
18. CARD Clinic.
19. CARD Foundation communication with Alan C. Whitehouse, M.D
20. CARD Foundation communication with any department, professor, or author at any of the following: University of Montana, Montana State University, and Idaho State University.
21. CARD Foundation Communication with Brad Black, 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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Dated: 05-16-2018