Edward J. Longosz, II, *pro hac vice*
Mark A. Johnston, *pro hac vice*
Kennedy C. Ramos, *pro hac vice*
ECKERT SEAMANS CHERIN & MELLOTT, LLC
1717 Pennsylvania Avenue, NW
12th Floor
Washington, D.C. 20006
(202) 659-6600 Telephone
(202) 659-6699 Facsimile
elongosz@eckertseamans.com
mjohnston@eckertseamans.com
kramos@eckertseamans.com

Joe Seifert
KELLER LAW FIRM, P.C.
50 South Last Chance Gulch
P.O. Box 598
Helena, Montana 59624
(406) 442-0230 Telephone
(406) 449-2256 Facsimile
cjseifert@kellerlawmt.com

Attorneys for Maryland Casualty Company, n/k/a Zurich American Insurance Company, successor by merger to Maryland Casualty Company

IN THE MONTANA ASBESTOS CLAIMS COURT

IN RE ASBESTOS LITIGATION,	)	Cause No. AC-17-0694
	)	
Consolidated Cases.	)	Applicable to
	)	*Hutt v. Maryland Casualty Co. et al.*,
	)	Eighth Judicial District Court,
	)	Cause No. DDV-18-0175
	)	
	)	

DEFENDANT MARYLAND CASUALTY COMPANY'S OBJECTION AND OPPOSITION TO PLAINTIFF'S PROPOSED ORDER ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Defendant Maryland Casualty Company ("MCC") submits this Objection and Opposition to Plaintiff Ralph V. Hutt's ("Hutt") Proposed Order on his Motion for Summary Judgment submitted on January 7, 2019. As set forth below, the filing of the Proposed Order was not requested by the Court. In addition, the Proposed Order misstates the record and contains clear errors of law. Accordingly, the Court should reject Plaintiff's filing and deny Plaintiff's Motion for Summary Judgment for the reasons set forth in MCC's Opposition to Plaintiff's Motion for Summary Judgment, as well as for the reasons discussed at the January 7, 2019 hearing.

I. Hutt's Filing of the Proposed Order is Improper

On January 7, 2019, the Court held a hearing on, *inter alia*, Hutt's Motion for Summary Judgment on Liability against MCC. In addition to Hutt's Motion, the Court heard argument on MCC's Motion for Summary Judgment contesting, as a matter of law, that any duty was owed to Hutt. The bases for MCC's alleged duties to Hutt, and whether MCC could be adjudged liable to Plaintiff for its conduct, were extensively briefed by the parties prior to the hearing pursuant to the dates set forth in Scheduling Order as amended. The Court heard argument on these matters and indicated that an Order and Opinion would be forthcoming.

MCC is not aware of any request for additional submissions by the parties, nor was there a request that the parties submit proposed orders.

Hutt's Proposed Order is nothing more than a supplemental brief in support of his Motion for Summary Judgment. Because the Court did not request that the parties submit proposed orders or supplemental briefing, and the issues were fully briefed prior to the January 7, 2019 hearing, the Court should ignore Hutt's Proposed Order and deny Plaintiff's Motion for Summary Judgment based upon the briefs submitted and the arguments presented at the hearing. Moreover, the Proposed Order misstates the record evidence and the law applicable to this case.

II. The Proposed Order is Fraught with Legal Error

As shown in MCC's briefs, and explained at the January 7, 2019 hearing, Hutt's general and overly simplistic analysis of duty is not supported by, and is in conflict with, Montana law. In addition, Hutt's Proposed Order includes findings of fact which are improper in this summary judgment proceeding. The acceptance and entry of Hutt's Proposed Order would inject reversible error into these proceedings.

A. Hutt Misconstrues and Misapplies Montana Law on Duty

Montana courts follow the Restatement (Second) of Torts and apply § 324A ("§ 324A") in determining whether a duty is owed to a third-party when there has been an undertaking. It is undisputed that Montana recognizes the assumed undertaking principles as defined by the Restatement (Second) of Torts. *Lokey v. Breuner*, 2010 MT 216, ¶¶ 10-12, 358 Mont. 8, 10–11, 243 P.3d 384, 385–86 (citing the Restatement (Second) of Torts, § 323 and § 324); *Nelson v. Driscoll*, 1999 MT 193, ¶ 38, 295 Mont. 363, 378, 983 P.2d 972, 981 (citing § 323 for "long-standing" principle of tort law); *see also Onsager v. Frontera Produce Ltd.*, 2014 WL 3828374, at *5 (D. Mont. 2014) (noting that Montana Supreme Court "has not yet had occasion to expressly adopt § 324A, "but predicting that it would do so if presented with the facts before the U.S. District Court"). In addition, Montana federal courts and the Ninth Circuit have applied § 324A in cases rising under Montana law in deciding cases brought under the Federal Torts Claims Act ("FTCA"). *Other Bull v. United States Dep't of Hous. & Urban Dev., Bureau of Indian Affairs*, 1994 U.S. App. LEXIS 719 (9th Cir. 1994); *Jeffries v. United States*, 477 F.2d 52 (9th Cir. 1973); *Mellott v. United States*, 808 F. Supp. 746, 749 n.3 (D. Mont. 1992).

As Hutt's counsel alluded to at oral argument, at times the Libby Plaintiffs have looked to § 324A as the basis for their claims, and at times they have argued it is inapplicable. The Proposed

Order provides no clarity to the whether or not § 324A applies. Instead, it follows the Libby Plaintiffs' disjointed, self-serving practice by asking this Court to ignore one of the requisite elements of § 324A, reliance[1], while finding that "Hutt has consistently argued the principles of 324A as those principles have been recognized by the Montana Supreme Court." Proposed Order, ¶ 14. However, based upon a misapplication of the limited decision in *Kent v. City of Columbia Falls*, 2015 MT 139, 379 Mont. 190, 350 P.3d 9[2], Hutt concludes that reliance is not a necessary element and asks this Court to apply a truncated version of § 324A to the facts of this case. *Kent* simply has no application to § 324A and Hutt's strained reading of that case does not support his ever shifting theories of duty against MCC, rather the law militates against Hutt's position.

Hutt's claims fail as a matter of law under any of the theories he advances in his 28 page Proposed Order. It is well-settled in Montana that there is no duty to protect others against harm from third persons, absent a special relationship of custody or control. *See Prindel v. Ravalli County*, 2006 MT 62, ¶ 25, 331 Mont. 338, 349-350, 133 P.3d 165.

> In general, anyone who does an affirmative act is under a duty to others to exercise the care of a reasonable man to protect them against an unreasonable risk of harm to them arising out of the act. ***The duties of one who merely omits to act are more restricted, and in general are confined to situations where there is a special relation between the actor and the other which gives rise to the duty.***

---

[1] The Restatement 2d of Torts, § 324A(c). Alternatively, § 324A requires that the defendant's conduct either increased the risk of harm or the defendant has undertaken to perform a duty owed by the other to the third person, neither of which are relevant in the instant case. The Restatement 2d of Torts, § 324A(a)-(b) (1965).

[2] Hutt's recitation of the holding and selective quotation of *Kent* is both incomplete and misleading. The Supreme Court did not reverse the entry of summary judgment solely by reason of the City being "actively involved in the design" of the city park path as Hutt suggests. Proposed Order, ¶ 14. The entire passage states, "Evidence sufficient to defeat summary judgment exists that the City was actively involved in the design of the path, knew of its dangerous grade, ***had the statutory authority to compel a modification, and yet exercised its statutory and contractual authority to approve it.***" *Kent*, 2015 MT 139, ¶ 52, 379 Mont. 190, 206, 350 P.3d 9, 33 (emphasis added). The facts and circumstances of *Kent* are clearly different from the facts here. More importantly, *Kent* ***did not involve any claims brought pursuant to § 324A***.

Restatement (Second) of Torts § 302 (1965), comment (a). The fact that action is necessary for another's protection does not of itself impose a duty to act. Restatement (Second) of Torts § 314; *see also Emmanuel v. Great Falls School Dist.*, 2009 MT 185, ¶ 14, 351 Mont. 56, 59, 209 P.3d 244, 247, n.1 (citing, with approval, § 302). Significantly, a duty may be created by an undertaking, as provided in § 324A, however the facts of this case do not support an undertaking as a matter of law. Restatement (Second) of Torts § 302, comment (a).

Notwithstanding the applicability of ***all elements*** of § 324A to Hutt's claims against MCC, Hutt asks this Court to create an entirely new standard for a so-called "duty to warn" based upon "(i) MCC's exceptional degree of engagement of the asbestos hazard, (ii) MCC's superior knowledge of the hazard and its ongoing consequences, and (iii) MCC's position as the 'Safety Program' designer." Proposed Order, ¶ 7. To reach this conclusion, Hutt stretches the facts and holdings of several cases to identify "guiding principles" for this Court to announce a new standard to apply to MCC. For instance, *Piedalue v. Clinton Elementary Sch. Dist. No. 32*, 214 Mont. 99, 102-103, 692 P.2d 20, 22-23 (1984) is a premises liability case, where the Montana Supreme Court found a genuine issue of material fact as to whether a ***landowner*** owed a duty to a business invitee[3] to warn of a hidden danger involved in ingress or egress from the landowner's property. *Piedalue* stands for the limited proposition that "a property owner's duty to keep his premises reasonably safe may extend beyond his premises." *See Wilden v. Neumann*, 2008 MT 236, ¶ 30, 344 Mont. 407, 413, 189 P.3d 610 (discussing *Piedalue*, 214 Mont. 99, 692 P.2d 20). Of course, the property owner here was W.R. Grace ("Grace"), not MCC, and it was Grace that had the most significant

[3] Montana has since done away with distinguishing a duty of care in premises liability cases based on the status of the injured party, and instead recognizes a duty of ordinary care in the circumstances by the landowner. *See Limberhand v. Big Ditch Co.*, 218 Mont 132, 140, 706 P.2d 491, 496 (1985).

"degree of engagement of the asbestos hazard," "superior knowledge of the hazard and its ongoing consequences," and was responsible for approval, implementation and oversight of any safety program.[4]

The newly announced standard set forth in the Proposed Order is not supported by Montana law—foreseeability and heightened knowledge alone do not create a duty to warn. Because Hutt's claims are based upon MCC's alleged failure to act, there must be a special relationship between MCC and Hutt. There was not, and there is no record evidence to support this notion. Moreover, Hutt's argument attempts to turn an employer's non-delegable duty to provide a safe workplace on its head. *See* Mont. Code Ann. § 50-71-201; *Olson v. Shumaker Trucking and Excavating Contractors, Inc.*, 2008 MT 378, ¶ 58, 347 Mont. 1, 15, 196 P.3d 1265, 1275. Imposing a duty to warn based on foreseeability and superior knowledge alone effectively transfers an employer's non-delegable duty to ensure a safe workplace. This is undoubtedly inconsistent with Montana law.

B. The Proposed Order Misstates the Holding of the U.S. Bankruptcy Court

The Proposed Order, in confusing fashion, concludes that the U.S. Bankruptcy Court ruled that Hutt's Negligence and Bad Faith claims arise out of the "provision of insurance" and are therefore proper. Proposed Order, ¶ 16. The Proposed Order is based upon a misunderstanding of MCC's argument and it ignores Judge Kevin J. Carey's October 17, 2016 Opinion ("Judge Carey's Opinion"). MCC has not argued that Hutt's claims do not arise by reason of the fact of provision of insurance. Proposed Order, ¶ 16. Instead, MCC contends that the claims go beyond the limited scope identified in Judge Carey's Opinion:

[4] Hutt has failed to introduce ***any*** evidence that the draft safety program was ever finalized, accepted by Grace and implemented as proposed in draft form. In this regard, the Proposed Order is based upon nonexistent facts which Hutt conveniently ignores.

> The Plaintiffs [including Hutt] contend that, as employees, the Negligence Claim and the Bad Faith Claim must arise under MCC's worker[s'] compensation policies. **To the extent that the Plaintiffs can demonstrate that the Plaintiffs' Claims arise out of or are based on MCC's *workers' compensation policies*,** the claims are not barred by the Asbestos PI Channeling Injunction and may be filed in state court.

Hutt v. Maryland Cas. Co. (In re W.R. Grace & Co.), 2016 Bankr. LEXIS 3754, *44 (Bankr. D. Del. 2016) (emphasis added). The Proposed Order conflates the Bankruptcy Court's finding concerning a requisite element of 11 U.S.C. § 524(g) (that the claim arise from the provision of insurance) with the language of Judge Carey's Opinion (that only those claims arising out of or based on MCC's ***workers' compensation policies***) may proceed. By conflating the general provision of insurance with actual workers' compensation policies, the Proposed Order completely misconstrues Judge Carey's Opinion and leaves it as a nullity. Judge Carey's determination that Hutt's claims arose from the provision of insurance was limited to the applicability of the channeling injunction to MCC for purposes of 11 U.S.C. § 524(g). In no way did Judge Carey determine the basis of any substantive claim raised against MCC. To the contrary, his opinion set forth the limitation of any such claims—that they must arise out of or be based upon MCC's ***workers' compensation policies***. One must look at the actual policy to determine the terms of the contract. The Proposed Order adopts Hutt's confusion and misreading of Judge Carey's Opinion.

III. The Proposed Order Makes Inappropriate Findings and is Inaccurate

A. The Proposed Order Contains Improper Findings of Facts

The Proposed Order goes far beyond determining the legal issues presented to the Court on summary judgment by making numerous impermissible findings of fact. Putting aside the incorrect legal analysis of duty set forth in the Proposed Order, Hutt has asked the Court to adopt inaccurate findings that are not supported by the record evidence. The Proposed Order time and again includes findings of fact against MCC:

- "Workers were exposed to an asbestos hazard which is physically invisible, has no onion properties, and does not signal its dangerous character until the latent disease process becomes symptomatic many years after the exposure." Proposed Order, ¶ 7(a).

- "MCC knew that the workers, including Ralph Hutt, were exposed to asbestos dust levels which exceeded industrial hygiene safety standards and which were dangerous to worker health." Proposed Order, ¶ 7(b).

- "Serious lung injury to the workers… was an ongoing consequence of the workers' exposure asbestos dust at excessive levels." Proposed Order, ¶ 7(c).

- "…MCC acquired a high degree of knowledge about the exceptionally high (60-80%) asbestos content of the dust and the exposure levels which regularly exceeded every safety standard by as much as '10-100 times.'" Proposed Order, ¶ 7(e).

- "MCC had actual knowledge that its engineering proposals to control the asbestos dust were not achieving safe work environment by any asbestos exposure standard." Proposed Order, ¶ 7(e) [sic].

Each of these facts[5] is disputed by MCC. Although Hutt has characterized certain documents as supportive of his factual conclusions, these factual assertions taken as "sound bites" are not correct based upon a review of the record evidence. The Proposed Order goes beyond the limits imposed upon the Court in deciding issues of fact presented by summary judgment and is therefore inappropriate.

B. The Proposed Order Misstates the Record

In addition to making improper findings of fact, the Proposed Order misstates the record based upon incomplete recitations of the facts as well as mischaracterizations of testimony provided by MCC representatives. The Proposed Order repeatedly focuses on a single document or snapshot in time while ignoring contradictory evidence set forth in unmentioned documents. Similarly, the Proposed Order misconstrues MCC's corporate representative's reading of documents as either "acknowledgments" or "admissions." Much of the testimony cited is also

[5] This is by no means an exhaustive list of the factual determinations included in the Proposed Order.

speculative and without foundation. In short, the Proposed Order does not accurately reflect the complete record in this case.

One example of Hutt's selective citation to the record is the incredible statement that, "[t]he record is clear however that, by October of 1967 - i.e. well before Hutt's period of employment - Grace had become enthusiastically cooperative" and that "[b]y October of 1967, all of MCC's recommendations had been completed…" Proposed Order, ¶ 29. However, Hutt completely ignores evidence from 1969, ***when Hutt was working at the Libby Plant***, that Grace personnel were still discussing ***the need for a comprehensive safety program***. Ex. 47 to MCC's SJ Br. (3/3/1969 letter from R.M. Vining, President of the Grace Construction Products Division to R.E. Schneider, Chief Engineer for the Grace Construction Projects Division, "It is my recommendation that authorization be granted to proceed with the program outlined in the report."); *id.*, Report at 10-13 ("Program for Establishing Required Changes"); Ex. 31 to MCC's SJ Br. (6/19/1969 letter from Kostic stating, "Regarding our deliberations and questions having to do with pneumoconiosis cases, here are a few of my thoughts…. I shall be glad to set up a meeting with J-M's top medical and workmen's compensation personnel whenever you're ready."); Ex. 46 to MCC's SJ Br. at 5 (10/7/1969 letter from Kostic to Vining and Grace personnel, stating "Employee health, growing concern over air pollution and the fact that the federal government is considering the adoption of an "Asbestos Workers Health Protection Act' ***makes it essential that a company-wide program of dust control be established.***") (emphasis added). This evidence directly contradicts Hutt's theory that a safety program was finalized, implemented and that, by 1967, Grace was following the program and all recommendations of MCC.[6]

[6] The Proposed Order states that MCC "admitted" the "status of affairs" in 1967 when asked whether "Grace was ***apparently*** at this time in October of '67 following Maryland Casualty's recommendations?" Proposed Order, ¶ 29 (citation omitted) (emphasis added). MCC's so-called

The Proposed Order also alludes to a letter from October 27, 1969 which merely notes that "some of the men… have shown some changes since the last x-ray examination." Ex. 56 to MCC's SJ Br. The Proposed Order mischaracterizes this finding as "ongoing lung impairment." Proposed Order, ¶ 26. From there, the Proposed Order makes an enormous leap to conclude that MCC had "knowledge of a high incidence of disease." *Id*. This is a blatant misstatement of the facts.

The Proposed Order also repeatedly cites to the deposition of MCC's corporate representative in incomplete and misleading fashion. In paragraph 10, the Proposed Order states that "the evidence establishes that MCC knew that Grace was relying on its recommendations for dust control and safe exposure levels." Proposed Order, ¶ 10. However, the deposition testimony cited in support contains nothing more than agreement by MCC's corporate representative of what the single letter shown to him states. *Id*. There is overwhelming documentary evidence that has been cited to the Court that Grace ignored the recommendations of MCC, and nothing in the passage quoted contradicts this record evidence.

Similarly, in paragraph 21, the Proposed Order cites to "admissions" by MCC concerning "the standard of care recognized in industry for a safety program…" Proposed Order, ¶ 21. The passage cited is deficient for several reasons. The standard of care is a matter of expert opinion testimony.[7] The testimony cited does not establish that MCC's corporate representative is either qualified to provide expert testimony, nor has the proper foundation for any such testimony been

"admission": "That's the impression I had." *Id*. Clearly, Mr. Shoup's testimony lacks foundation, is speculative and represents nothing more than an "impression" he gleaned from documents from more than 50 years ago. The record evidence truly portrays Grace's view of MCC's recommendations, particularly in 1969.

[7] Whether the standard of care required worker training, signs or warnings (*see* Proposed Order, ¶ 22) is for the jury to decide based upon expert testimony and is not suitable for disposition on summary judgment.

established.[8] In addition and more importantly, the testimony is without temporal scope—there is no indication of whether the witness was discussing "safety industrial hygiene standards" in 1964, 1969, 1985 or at present day. As the Court is aware, the specific standards applicable to MCC would have to be ***during the relevant time period***. The general, non-specific testimony of MCC's corporate representative cannot serve as an admission of the applicable standard of care and has no effect on the disposition of this case.

The Proposed Order also cites to deposition of MCC's corporate representative in an attempt to obfuscate the applicable standard of care for threshold limit values of dust concentrations. There is no dispute that that the standard of care in 1968 and 1969 was 5 million particles per cubic feet ("mppcf")—Hutt's expert industrial hygienists have so testified[9]—which MCC recommended Grace follow. Ex. 16 to MCC's SJ Br. However, the Proposed Order seeks to confuse the issue and sidestep the applicable standard of care based upon vague language in correspondence between Grace and MCC over a three year period. When asked if counsel's reading of the documents about the statement that "[t]hey can all continue safely" was correct, MCC's representative merely stated "that's a reasonable interpretation." Proposed Order, ¶ 24. Of course, the 5 mppcf was the sole standard of operation even by the Plaintiff's own expert's standard. This was not an "admission." More importantly, any statement concerning safely continuing is irrelevant. The only relevant issue is whether or not MCC's recommendation complied with the applicable standard of care. Clearly, the standard of care for acceptable threshold limit values evolved over time, a point that Plaintiff's expert embraced. The testimony

[8] Such objections were noted by counsel for MCC on the record. *Id*.

[9] Exhibit D to MCC's Motion in Limine Reply, Deposition of Terry Spear at 89:21-90:3; 135:24-137:2.

of MCC's corporate representative in no way contradicts the applicable standard of care, and it certainly does not serve as an admission of any violation.

CONCLUSION

Hutt's Proposed Order is improper, misstates the record and contains clear errors of law. Accordingly, the Court should reject Plaintiff's filing and deny Plaintiff's Motion for Summary Judgment.

Dated: January 11, 2019

By: */s/ Edward J. Longosz, II*
Edward J. Longosz, II, *pro hac vice*
Mark A. Johnston, *pro hac vice*
Kennedy C. Ramos, *pro hac vice*
ECKERT SEAMANS CHERIN & MELLOTT, LLC
1717 Pennsylvania Avenue, NW
12th Floor
Washington, D.C. 20006
(202) 659-6600 Telephone
(202) 659-6699 Facsimile
elongosz@eckertseamans.com
mjohnston@eckertseamans.com
kramos@eckertseamans.com

Joe Seifert
Keller Law Firm, P.C.
50 South Last Chance Gulch
P.O. Box 598
Helena, Montana 59624
(406) 442-0230 Telephone
(406) 449-2256 Facsimile
cjseifert@kellerlawmt.com

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true copy of the foregoing document was filed via the Montana Courts Electronic Filing system and served upon the following individuals:

Hon. Amy Poehling Eddy
920 South Main
Kalispell MT 59901
Asbestos Claims Court Judge

Allan M. McGarvey
John Lacey
Dustin Leftridge
345 1st Avenue E
Kalispell MT 59901
Representing: Adams, et al

Dated this 11th day of January, 2019.

/s/ Edward J. Longosz, II

CERTIFICATE OF SERVICE

I, Kennedy C. Ramos, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Other to the following on 01-11-2019:

Amy Poehling Eddy (Attorney)
920 South Main
Kalispell MT 59901
Representing: Amy Eddy
Service Method: eService

Roger M. Sullivan (Attorney)
345 1st Avenue E
MT
Kalispell MT 59901
Representing: Adams, et al
Service Method: eService

Allan M. McGarvey (Attorney)
345 1st Avenue East
Kalispell MT 59901
Representing: Adams, et al
Service Method: eService

Jon L. Heberling (Attorney)
345 First Ave E
Kalispell MT 59901
Representing: Adams, et al
Service Method: eService

John F. Lacey (Attorney)
345 1st Avenue East
Kalispell MT 59901
Representing: Adams, et al
Service Method: eService

Ethan Aubrey Welder (Attorney)
345 1st Avenue East
Kalispell MT 59901
Representing: Adams, et al
Service Method: eService

Dustin Alan Richard Leftridge (Attorney)
345 First Avenue East
Montana
Kalispell MT 59901
Representing: Adams, et al
Service Method: eService

Jeffrey R. Kuchel (Attorney)
305 South 4th Street East
Suite 100
Missoula MT 59801
Representing: Accel Performance Group LLC, et al, MW Customs Papers, LLC
Service Method: eService

Danielle A.R. Coffman (Attorney)
1667 Whitefish Stage Rd
Kalispell MT 59901
Representing: Accel Performance Group LLC, et al, MW Customs Papers, LLC
Service Method: eService

Gary M. Zadick (Attorney)
P.O. Box 1746
#2 Railroad Square, Suite B
Great Falls MT 59403
Representing: Honeywell International
Service Method: eService

Gerry P. Fagan (Attorney)
27 North 27th Street, Suite 1900
P O Box 2559
Billings MT 59103-2559
Representing: CNH Industrial America LLC
Service Method: eService

G. Patrick HagEstad (Attorney)
PO Box 4947
Missoula MT 59806
Representing: United Conveyor Corporation, Riley Stoker Corporation et al
Service Method: eService

Jennifer Marie Studebaker (Attorney)
210 East Capitol Street
Suite 2200
Jackson MS 39201
Representing: Goulds Pump LLC, Grinnell Corporation, ITT LLC, et al, International Paper Co.
Service Method: eService

Joshua Alexander Leggett (Attorney)

210 East Capitol Street, Suite 2200
Jackson MS 39201-2375
Representing: Goulds Pump LLC, Grinnell Corporation, ITT LLC, et al, International Paper Co.
Service Method: eService

Vernon M. McFarland (Attorney)
200 South Lamar Street, Suite 100
Jackson MS 39201-4099
Representing: Goulds Pump LLC, Grinnell Corporation, ITT LLC, et al, International Paper Co.
Service Method: eService

Jean Elizabeth Faure (Attorney)
P.O. Box 2466
1314 Central Avenue
Great Falls MT 59403
Representing: Goulds Pump LLC, Grinnell Corporation, ITT LLC, et al, Borg Warner Morse Tec LLC, International Paper Co.
Service Method: eService

Jason Trinity Holden (Attorney)
1314 CENTRAL AVE
P.O. BOX 2466
Montana
GREAT FALLS MT 59403
Representing: Goulds Pump LLC, Grinnell Corporation, ITT LLC, et al, Borg Warner Morse Tec LLC, International Paper Co.
Service Method: eService

Chad E. Adams (Attorney)
PO Box 1697
Helena MT 59624
Representing: Weir Valves & Controls USA, Cyprus Amex Minerals Company, Fischbach and Moore, Inc. et al, American Honda Motor Co., Inc., Harder Mechanical Contractors, Nissan North American Inc.
Service Method: eService

Katie Rose Ranta (Attorney)
Faure Holden, Attorneys at Law, P.C.
1314 Central Avenue
P.O. Box 2466
GREAT FALLS MT 59403
Representing: Borg Warner Morse Tec LLC
Service Method: eService

Stephen Dolan Bell (Attorney)
Dorsey & Whitney LLP
125 Bank Street
Suite 600
Missoula MT 59802

Representing: Ford Motor Company
Service Method: eService

Dan R. Larsen (Attorney)
Dorsey & Whitney LLP
111 South Main
Suite 2100
Salt Lake City UT 84111
Representing: Ford Motor Company
Service Method: eService

Kelly Gallinger (Attorney)
315 North 24th Street
Billings MT 59101
Representing: Maryland Casualty Corporation
Service Method: eService

Charles J. Seifert (Attorney)
P.O. Box 598
Helena MT 59624
Representing: Ford Motor Company, Maryland Casualty Corporation
Service Method: eService

Robert J. Phillips (Attorney)
Garlington, Lohn & Robinson, PLLP
P.O. Box 7909
Missoula MT 59807
Representing: BNSF Railway Company
Service Method: eService

Emma Laughlin Mediak (Attorney)
Garlington, Lohn & Robinson, PLLP
P.O. Box 7909
Missoula MT 59807
Representing: BNSF Railway Company
Service Method: eService

Daniel Jordan Auerbach (Attorney)
201 West Railroad St., Suite 300
Missoula MT 59802
Representing: Weir Valves & Controls USA, Cyprus Amex Minerals Company
Service Method: eService

Leo Sean Ward (Attorney)
PO Box 1697
Helena MT 59624
Representing: Weir Valves & Controls USA, Cyprus Amex Minerals Company, Fischbach and Moore, Inc. et al, American Honda Motor Co., Inc., Harder Mechanical Contractors, Nissan North American Inc.

Service Method: eService

Robert B. Pfennigs (Attorney)
P.O. Box 2269
Great Falls MT 59403
Representing: Stimson Lumber Company, Zurn Industries, Inc., Mazda Motor of America, Inc.
Service Method: eService

Rick A. Regh (Attorney)
P.O. Box 2269
GREAT FALLS MT 59403
Representing: Stimson Lumber Company, Zurn Industries, Inc., Mazda Motor of America, Inc.
Service Method: eService

Mark Trevor Wilson (Attorney)
300 Central Ave.
7th Floor
P.O. Box 2269
Great Falls MT 59403
Representing: Stimson Lumber Company, Zurn Industries, Inc., Mazda Motor of America, Inc.
Service Method: eService

Robert M. Murdo (Attorney)
203 N orth Ewing
Helena MT 59601
Representing: Mine Safety Appliance Company LLC
Service Method: eService

Murry Warhank (Attorney)
203 North Ewing Street
Helena MT 59601
Representing: Mine Safety Appliance Company LLC
Service Method: eService

Ben A. Snipes (Attorney)
Kovacich Snipes, PC
P.O. Box 2325
Great Falls MT 59403
Representing: Backen et al, Sue Kukus, et al
Service Method: eService

Mark M. Kovacich (Attorney)
Kovacich Snipes, PC
P.O. Box 2325
Great Falls MT 59403
Representing: Backen et al, Sue Kukus, et al
Service Method: eService

Ross Thomas Johnson (Attorney)

P.O. Box 2325
Great Falls MT 59403
Representing: Backen et al, Sue Kukus, et al
Service Method: eService

Randy J. Cox (Attorney)
P. O. Box 9199
Missoula MT 59807
Representing: A.W. Chesterson Company
Service Method: eService

Zachary Aaron Franz (Attorney)
201 W. Main St.
Suite 300
Missoula MT 59802
Representing: A.W. Chesterson Company
Service Method: eService

M. Covey Morris (Attorney)
Tabor Center
1200 Seventeenth St., Ste. 1900
Denver CO 80202
Representing: FMC Corporation
Service Method: eService

Robert J. Sullivan (Attorney)
PO Box 9199
Missoula MT 59807
Representing: Ingersoll-Rand, Co.
Service Method: eService

Dale R. Cockrell (Attorney)
145 Commons Loop, Suite 200
P.O. Box 7370
Kalispell MT 59904
Representing: State of Montana
Service Method: eService

Vaughn A. Crawford (Attorney)
SNELL & WILMER, L.L.P.
400 East Van Buren
Suite 1900
Phoenix AZ 85004
Representing: The Proctor & Gamble Company et al
Service Method: eService

Tracy H. Fowler (Attorney)
15 West South Temple
Suite 1200

South Jordan UT 84101
Representing: The Proctor & Gamble Company et al
Service Method: eService

Martin S. King (Attorney)
321 West Broadway, Suite 300
P.O. Box 4747
Missoula MT 59806
Representing: Foster Wheeler Energy Services, Inc.
Service Method: eService

Maxon R. Davis (Attorney)
P.O. Box 2103
Great Falls MT 59403
Representing: Continental Casualty Company
Service Method: eService

Tom L. Lewis (Attorney)
2715 Park Garden Lane
Great Falls MT 59404
Representing: Harold N. Samples
Service Method: eService

Keith Edward Ekstrom (Attorney)
601 Carlson Parkway #995
Minnetonka MN 55305
Representing: Brent Wetsch
Service Method: eService

William Rossbach (Attorney)
401 N. Washington
P. O. Box 8988
Missoula MT 59807
Representing: Michael Letasky
Service Method: eService

Edward J. Longosz (Attorney)
1717 Pennsylvania Avenue NW
Suite 1200
Washington DC 20006
Representing: Maryland Casualty Corporation
Service Method: eService

Chad M. Knight (Attorney)
929 Pearl Street
Ste. 350
Boulder CO 80302
Representing: BNSF Railway Company
Service Method: eService

Anthony Michael Nicastro (Attorney)
401 North 31st Street
Suite 770
Billings MT 59101
Representing: BNSF Railway Company
Service Method: eService

Nadia Hafeez Patrick (Attorney)
929 Pearl Street Suite 350
Boulder CO 80302
Representing: BNSF Railway Company
Service Method: eService

Kevin A. Twidwell (Attorney)
1911 South Higgins Ave
PO Box 9312
Missoula MT 59807
Representing: Libby School District #4
Service Method: eService

Jinnifer Jeresek Mariman (Attorney)
345 First Avenue East
Kalispell MT 59901
Representing: Adams, et al
Service Method: eService

Stephanie A. Hollar (Attorney)
P.O. Box 2269
Great Falls MT 59403
Representing: Stimson Lumber Company
Service Method: eService

James E. Roberts (Attorney)
283 West Front Street
Suite 203
Missoula MT 59802
Representing: BNSF Railway Company
Service Method: eService

Jacy Suenram (Attorney)
P.O. Box 2325
Great Falls MT 59403
Representing: Backen et al
Service Method: eService

Michael Crill (Other)
PO Box 145
Rimrock AZ 86335

Service Method: Conventional

Michael D. Plachy (Attorney)
1200 17th Street
Denver CO 80202
Representing: Honeywell International
Service Method: Conventional

Conor A. Flanigan (Attorney)
1200 17th Street
Denver CO 80202
Representing: Honeywell International
Service Method: Conventional

Fredric A. Bremseth (Attorney)
601 Carlson Parkway, Suite 995
Minnetonka MN 55305-5232
Representing: Brent Wetsch
Service Method: Conventional

Walter G. Watkins (Attorney)
210 E. Capitol Street, Ste. 2200
Jackson MS 39201
Representing: International Paper Co.
Service Method: Conventional

Jason Eric Pepe (Attorney)
519 Southwest Boulevard
Kansas City MO 64108
Representing: BNSF Railway Company
Service Method: Conventional

Peter A. Moir (Attorney)
701 Poydras Street, Suite 2200
New Orleans LA 70139-6001
Representing: International Paper Co.
Service Method: Conventional

Mark A. Johnston (Attorney)
1717 Pennsylvania Ave. NW, 12th Floor
Washington DC 20006
Representing: Maryland Casualty Corporation
Service Method: Conventional

Erik H Nelson (Attorney)
519 Southwest Boulevard
Kansas City MO 64108
Representing: BNSF Railway Company
Service Method: Conventional

Michael E. Wise (Attorney)
519 Southwest Boulevard
Kansas City MO 64108
Representing: BNSF Railway Company
Service Method: Conventional

Electronically Signed By: Kennedy C. Ramos
Dated: 01-11-2019