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May 10, 2011

VIA ELECTRONIC and REGULAR MAIL

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**Re: Weitz and Luxenberg October 2011 In Extremis Cluster
New York Supreme Court, County of New York (NYCAL)
Medical and Discovery/Forum Objections**

Dear Laraine:

We, along with Marin Goodman, LLP and Malaby and Bradley, LLC, write as medical and defense liaison counsel regarding the Weitz & Luxenberg cases proposed for the October 2011 In Extremis Trial Cluster. Set forth below are defendants' objections to the above-referenced cases. Please note, as always, there has been little discovery and few depositions in these cases; we reserve the right to make forum objections and any other objections once depositions are conducted in these cases. Additionally, we request that Weitz & Luxenberg provide complete work histories for each plaintiff and that the interrogatories contain actual employers, time periods and specific sites as opposed to "see social security printout."

As always, we submit this letter in our role as liaison counsel. Our own clients are not necessarily in the cases for which we raise these objections, but instead we raise them at the request and benefit of the remaining defendants in each case.

Defendants respectfully reserve the right to object, on medical and/or discovery grounds, to any case that may be added to subsequent revisions of the NYCAL October 2011 case list. This list of objections is based on the "April 26, 2011" case list posted on that date.

Weitz and Luxenberg

Alfonso, Julian:

Defendants object to this case on medical grounds. To date, defendants have not been provided with any pathology report diagnosing mesothelioma.

Aliprantis, Julian:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with an April 12, 2011 biopsy report from St. Francis Hospital diagnosing "malignant tumor favor large cell carcinoma." There is no indication of the cancer stage or whether the cancer has metastasized. Additionally, there is no indication that the cancer is a lung primary. The pathology report states "the primary site cannot be determined immunohistochemically." We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Assalone, Vincent:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a June 16, 2010 biopsy report from New York Hospital Queens diagnosing "non-small cell carcinoma." There is no indication of the cancer stage or whether the cancer has metastasized. The report indicates that all lymph nodes are "negative for metastatic carcinoma." We request additional and recent information regarding plaintiff's alleged diagnosis and in extremis status.

Barrett, John:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a biopsy report from 14 months ago (dated March 14, 2010) from North Shore Long Island Jewish Hospital diagnosing "poorly differentiated carcinoma." There is no indication of the cancer stage or whether the cancer has metastasized. Additionally, there is no indication that the cancer is a lung primary. The pathology report states it is most likely a pulmonary primary, but results of the staining were "non-contributory." A radiology report dated November 16, 2010 states "possibility of metastatic lung nodule is to be considered until proven otherwise." We request additional and recent information regarding plaintiff's alleged diagnosis and in extremis status.

Berkowitz, Marjorie:

Defendants object to this case on forum grounds and lack of sufficient evidence. Plaintiff resides in Poughkeepsie, New York and has not yet been deposed. Plaintiff alleges exposure to asbestos from 1967 to 1974 while working as an assembly line and kitchen worker in Long Island, New York. Additionally, plaintiff alleges bystander exposure to asbestos from 1953 to the present from home renovation work in Johnson City, New York (1953-1959), Binghamton, New York (1959-1963), Northport, New York (1964-1974), and Poughkeepsie, New York (1974-present), as well as from her husband's occupation as a manager/vending machine operator at unknown locations for an unspecified period of time. It is not clear from plaintiff's interrogatory responses whether there is any purported New York City exposure to asbestos and, therefore, whether New York County is the appropriate venue for this action. This action is better suited in Nassau or Suffolk County, the locations in which plaintiff resided and worked, and where an overwhelming majority of his alleged asbestos exposure occurred.

Brown, Eugene:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have been provided with a December 2, 2010 biopsy report from South Communities Hospital stating "favors adenocarcinoma of lung primary." We request additional and recent information regarding plaintiff's alleged diagnosis and in extremis status.

Defendants further object to this case on forum grounds. Plaintiff is a lifetime resident of Long Island, New York and was deposed in this action. He alleges exposure to asbestos from 1974 to present while working as an automobile mechanic/technician for various employers in Long Island. His sole allegation of exposure in New York City relates to automobile maintenance work he performed in Bayside, New York from 1983 to 1984. To the extent that plaintiff does not allege exposure to asbestos from 1980 to the present, this action does not have proper venue in New York County. It is better suited to be filed in Nassau County.

Colton, Richard:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a year-old (January 29, 2010) biopsy report from Winthrop University Hospital diagnosing stage 2 adenocarcinoma. There is no indication whether the cancer has metastasized. The report indicates that all lymph nodes are clear. We request additional and recent information regarding plaintiff's alleged diagnosis and in extremis status.

Costa, Maria:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a September 20, 2010 biopsy report from Mercy Medical Center diagnosing "small cell carcinoma." There is no indication of the cancer stage or whether the cancer has metastasized. The report indicates that the findings are consistent with "benign lymph nodes." We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Curnyn, Joseph:

Defendants object to this case on medical ground because there is no indication of an in extremis status. To date, we have only been provided with a November 23, 2010 biopsy report diagnosing stage 1 "squamous cell carcinoma." There is no indication whether the cancer has metastasized. The report indicates no tumor was seen in the lymph nodes. We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Delle Cave, Joseph:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a pathology report from a year and half ago dated November 2, 2009 diagnosing "non-small cell carcinoma favoring adenocarcinoma." There is no indication of the cancer stage or whether the cancer has

metastasized. We request additional and recent information regarding plaintiff's alleged diagnosis and in extremis status.

Erikson, Earl:

Defendants object to this case on forum grounds and lack of sufficient evidence. Plaintiff is a lifetime resident of Massachusetts, has never lived in New York, and has not yet been deposed. Plaintiff alleges exposure to asbestos from 1956 to 1969 while serving in the U.S. Navy as a yeoman aboard various vessels and at shipyards. Plaintiff's only exposure to asbestos that purportedly occurred in New York City was at the Todd Erie Basin Yard in Brooklyn, New York for an unspecified time. It is not clear from plaintiff's interrogatory responses whether New York County is the appropriate venue for this action.

Fredrickson, Steven:

Defendants object to this case on forum grounds. Plaintiff is a lifetime resident of Minnesota, has never lived in New York, and has been deposed in this action. Plaintiff alleges exposure to asbestos working as an assembler at Moulded Products, Inc. in Minnesota (1970); serving as an electrical technician in the U.S. Navy at various shipyards in California (1971-1973); and as a truck driver for both Celanese Polymer Specialties Co. in Minnesota (1973) and Barrett Moving & Storage in Minnesota and New York (1973-2010). Plaintiff's only alleged exposure in New York City occurred while making deliveries to the Jacob Javitz Convention Center and Shops at Columbus Circle. The majority of plaintiff's exposure to asbestos occurred while working in Minnesota from 1973 to 2010. This action is better suited in Minnesota, the location plaintiff has always resided and worked, and where an overwhelming majority of his alleged asbestos exposure occurred.

Holmes, Ryland:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a January 27, 2011 biopsy report from St. Francis Hospital diagnosing "metastatic large cell carcinoma." There is no indication of the cancer stage or whether the cancer is a lung primary. The report indicates "unknown primary site." We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Honan, Peter:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a March 23, 2011 biopsy report from North Shore University Hospital diagnosing "metastatic adenocarcinoma." There is no indication of the cancer stage or whether the cancer is a lung primary. The report indicates "primary site undetermined." We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Krivacsy, Virginia:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a two year old biopsy report dated April 2, 2009 from South Nassau Community Hospital diagnosing "non-small cell carcinoma." There is no indication of the cancer stage or whether the cancer has metastasized. We request additional and recent information regarding plaintiff's alleged diagnosis and in extremis status.

Marques, Firmino:

Defendants object to this case on forum grounds and lack of sufficient evidence. Plaintiff is a lifetime resident of New Jersey (since arriving in the U.S.), has never lived in New York, and has not yet been deposed. Plaintiff alleges exposure to asbestos from 1984 to 2003 while working as a demolition worker, pipe layer, and mason for a host of employers at "various and many locations in and around NYC." The only specific site listed in plaintiff's Chart A where any exposure to asbestos purportedly occurred is at the Empire State Building in 1984 for an unspecified time. It is not clear from plaintiff's interrogatory responses whether New York County is the appropriate venue for this action.

Marshburn, Ronald:

Defendants object to this case on forum grounds and lack of sufficient evidence. Plaintiff is a lifetime resident of New Jersey, has never lived in New York, and has not yet been deposed. Plaintiff alleges exposure to asbestos from the 1960's through the early 1970's while working for a New York employer and from the 1970's through 1998 while working for a variety of employers in New Jersey as a stationary engineer, boiler operator, and plumber. There are no specific sites listed in plaintiff's Chart A and the only reference where any exposure to asbestos purportedly occurred in New York City is at "various residences and apartment buildings in Manhattan." It is not clear from plaintiff's interrogatory responses whether New York County is the appropriate venue for this action. The action is better suited in New Jersey, the location in which plaintiff has always resided, worked for the much of his career, and where an overwhelming majority of his alleged asbestos exposure occurred.

Martin, Stephen:

Defendants object to this case on forum grounds and lack of sufficient evidence. Plaintiff resides in Texas, has never lived in New York, and has not yet been deposed. Plaintiff alleges exposure to asbestos from 1976 to 1978 as an operation auditor for a host of employers at various locations. Plaintiff's only alleged exposure to asbestos that purportedly occurred in New York City was while he was working at the Chrysler Building for an unspecified period of time. It is not clear from plaintiff's interrogatory responses whether New York County is the appropriate venue for this action.

Marty, Howard:

Defendants object to this case on forum grounds and lack of sufficient evidence. Plaintiff resides in Ohio, has never lived in New York, and has not yet been deposed. Plaintiff alleges exposure to asbestos from 1952 to 1982 while working as a plumber/pipefitter in Ohio; from 1955 to 1959 while working for the U.S. Government as a shipfitter aboard various vessels and in shipyards; and from 1963 to present performing renovation in his homes located in Ohio. Plaintiff's only alleged exposure to asbestos that purportedly occurred in New York City was while working for the U.S. Government at the Brooklyn Navy Yard for an unspecified period of time. It is not clear from plaintiff's interrogatory responses whether New York County is the appropriate venue for this action. This action is better suited in Ohio, the location in which plaintiff has resided since 1945, worked throughout most of his career, and where an overwhelming majority of plaintiff's alleged asbestos exposure occurred.

Mayce, Albert:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with an April 7, 2011 cytology report from North Shore University Hospital diagnosing "non-small cell carcinoma, favor adenocarcinoma." There is no pathology report analyzing tissue, no indication of plaintiff's stage of cancer, and no information indicating whether the primary tumor has metastasized. We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

McLaughlin, John:

Defendants object to this case on medical grounds because plaintiffs have not provided a tissue biopsy report. We have only been provided with a February 25, 2008 cytology report from Sarasota Pathology of left pleural fluid with a diagnosis "consistent with malignant mesothelioma." We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Nocella, Richard:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a February 23, 2011 cytology report from Winthrop-University Hospital of the right hilar lymph node diagnosing "metastatic, poorly differentiated non-small cell carcinoma with large areas of necrosis." There is no biopsy report that evidences a primary tumor, no indication of a stage of cancer, and nothing describing the type of metastasis referenced in the cytology report. We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Defendants further object to this case on forum grounds and lack of sufficient evidence. Plaintiff resides in Pennsylvania and has not yet been deposed. Plaintiff alleges exposure to asbestos from 1937 to 2000 from renovations performed on his homes in Brooklyn, New York and Long Island, New York 1953 to 2000; from 1956 to 1963 as a construction worker in Long Island, New York; and from 1963 to 1990 as an automobile mechanic in Long Island, New York. There are no specific sites listed in plaintiff's Chart A and the only reference where any exposure to asbestos purportedly occurred in New York City was while performing "construction work in

Queens and Nassau Counties.” It is not clear from plaintiff’s interrogatory responses whether New York County is the appropriate venue for this action. This action is better suited in Nassau or Suffolk County, the locations in which plaintiff once lived and worked, and where an overwhelming majority of plaintiff’s alleged exposure to asbestos occurred.

Norton, William:

Defendants object to the case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a February 21, 2011 surgical pathology report from Memorial Hospital for Cancer and Allied Diseases of the right upper lobe diagnosing “moderately differentiated adenocarcinoma.” The report indicates that there is “no lymphovascular or perineural invasion.” In addition, the bronchial and vascular margins are free of tumor and there is evidence of emphysema changes in the lung. We request additional information regarding plaintiff’s alleged diagnosis and in extremis status.

Papoulias, Emmanuel:

Defendants object to this deceased holdover case on forum grounds and lack of sufficient evidence. Plaintiff resided in New York City and was not deposed prior to his death. Plaintiff alleges exposure to asbestos from 1974 to 2006 while working as a carpenter at “various commercial and residential sites in Queens, New York.” There are no specific sites listed in plaintiff’s Chart A and the only reference to any exposure to asbestos that purportedly occurred in New York City is while plaintiff worked as a carpenter at “various commercial and residential sites in Queens, New York.” It is not clear from plaintiff’s interrogatory responses whether New York County is the appropriate venue for this action.

Patane, John:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, defendants have not been provided with any pathology report diagnosing lung cancer.

Rastelli, Floyd Rastelli:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a March 1, 2011 biopsy report from Good Samaritan Hospital diagnosing the left hilar lymph node with “poorly differentiated carcinoma.” There is no indication of the cancer stage or whether the cancer has metastasized. We request additional information regarding plaintiff’s alleged diagnosis and in extremis status.

Rodriguez, Pedro:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a November 10, 2010 surgical pathology report of the right lung from Mercy Medical Center with a diagnosis of “favor adenocarcinoma.” There is no indication of the cancer stage or whether the cancer has

metastasized. We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Sadlowski, Richard:

Defendants request a signed copy of the March 8, 2011 surgical pathology report from Dr. Orestes Borrego diagnosing "malignant mesothelioma."

Sasoni, Israel:

Defendants object to this deceased holdover case on forum grounds and lack of sufficient evidence. Plaintiff resided in Florida, has never lived in New York with the exception of a brief time in 1960, and was not deposed prior to his death. Plaintiff alleged exposure from 1960 to 1961 as a painter at "various residential sites in Brooklyn, New York"; from 1960 to 1965 as an automobile mechanic in New Jersey; from 1963 to 1970 as a welder in New Jersey; and from 1977 to 1996 as a welder in Florida. Plaintiff's only alleged exposure to asbestos that purportedly occurred in New York City was while working as a painter at unknown locations for an unspecified period of time. It is not clear from plaintiff's interrogatory responses whether New York County is the appropriate venue for this action. The action is better suited in New Jersey or Florida, the locations in which plaintiff lived and worked for a significant period of time, and where an overwhelming majority of his alleged asbestos exposure occurred.

Schaefer, William:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with an October 9, 2010 biopsy report from St. Luke's Cornwall Hospital of the left upper lobe diagnosing "well to moderately differentiated adenocarcinoma." The primary tumor is only stage one and there is no evidence of any metastasis.

Stockhausen, William:

Defendants object to this case because there is no indication of an in extremis status. To date, we have only been provided with a January 22, 2010 pathology report of the right lung nodule from Montefiore Medical Center diagnosing "squamous cell carcinoma." There is no indication of the cancer stage and no metastasis in the lymph nodes. We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Sullivan, Charles:

Defendants object to this case on medical grounds because there is no indication of an in extremis status. To date, we have only been provided with a February 24, 2011 fine needle aspiration report diagnosing "metastatic non-small cell carcinoma, favor adenocarcinoma." There is no indication of the cancer stage or extent of metastasis. Moreover, plaintiffs did not provide a biopsy report of tissue samples. We request additional information regarding plaintiff's alleged diagnosis and in extremis status.

Laraine Pacheco Brokaw

May 10, 2011

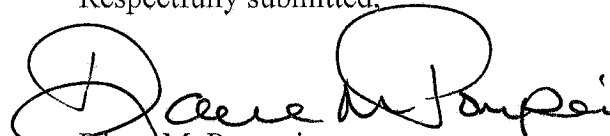
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Defendants additionally object to the case on forum grounds and lack of sufficient evidence. Plaintiff resides in Stamford, New York and has not yet been deposed. Plaintiff alleges exposure to asbestos from 1962 to 1973 as a brakeman and yard freight conductor for the Long Island Railroad in "Brooklyn, Queens, Long Island City and Long Island, NY." He also claimed exposure from 1973 to 1980 working as a wiper in the Merchant Marines aboard various vessels and shipyards in California. Plaintiff's only alleged exposure to asbestos that purportedly occurred in New York City was while he worked for the Long Island Railroad at unknown locations for an unspecified period of time. It is not clear from plaintiff's interrogatory responses whether New York County is the appropriate venue for this action.

In addition, as of May 20, 2011, RecordTrak has not received medical authorizations in the Charles Albrecht, John Aliprantis, Setenay Itez, Ronald Marshburn, Albert Mayce, Nicholas Minceli, John Patane, and Patrick Tauraso matters.

Finally, we are told by co-defendants that Israel Sasoni, Emmanuel Papoulis and Setenay Itez are deceased. Defendants are not yet in receipt of death certificates, Letters Testamentary or a Supplemental Summons and Complaint. Moreover, once an estate is in place, new authorizations will have to be provided to RecordTrak, which has not yet occurred. Defendants have not been advised of the death of any other plaintiffs listed on the preliminary list and reserve their right to object to the inclusion of any case where the plaintiff died prior to the applicable time period prescribed in the CMO.

Respectfully submitted,



Diane M. Pompei

cc: Charles Ferguson, Esq.