

## Cortez v. Lamorak Ins. Co.

United States District Court for the Eastern District of Louisiana

July 20, 2022, Decided; July 20, 2022, Filed

CIVIL ACTION NO. 20-2389 SECTION "R" (1)

### Reporter

2022 U.S. Dist. LEXIS 128423 \*

CALLEN J. CORTEZ, ET AL. VERSUS LAMORAK  
INSURANCE COMPANY, ET AL.

### Core Terms

manufacturer, supplier, box, products, insulation,  
industrial, asbestos, distributor, hygienist, vendors,  
places

**Counsel:** [\*1] For Kelsey J Cortez, Child of Callen J. Cortez; Doc. 1024, Callie Cortez Billiot, Child of Callen J. Cortez; Doc. 1024, Mona Hotard Cortez, Surviving Spouse of Callen J. Cortez; Doc. 1024, Plaintiffs: Gerolyn Petit Roussel, LEAD ATTORNEY, Roussel & Clement, Mandeville, LA; Benjamin Peter Dinehart, Roussel & Clement, Mandeville, LA; Jonathan Brett Clement, Roussel & Clement, Mandeville, LA; Lauren Roussel Clement, Roussel & Clement, Mandeville, LA; Perry Joseph Roussel, Jr., Roussel & Clement, Mandeville, LA.

For Lamorak Insurance Company, as Successor in interest to the liability for policies of insurance issued by Commercial Union Insurance Co, Columbia Casualty Co, Employers Commercial Union Insurance Co, & American Employers Insurance Co, Defendant: Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Francis Christopher Cannone, Taylor Wellons Politz & Duhe, New Orleans, LA.

For Huntington Ingalls Incorporated, formerly known as Northrop Grumman Shipbuilding, Inc. formerly known as Northrop Grumman Ship Systems, Inc. formerly known as Avondale Industries, Inc. formerly known as Avondale Shipyards, Inc formerly known as Avondale Marine [\*2] Ways, Inc., Defendant: Brian C. Bossier, LEAD ATTORNEY, Blue Williams, LLP (Metairie), Metairie, LA; Alexander R Saunders, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Camala E. Capodice, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA;

Christopher Thomas Grace, III, Blue Williams, LLP (Metairie), Metairie, LA; Connor Peth, Irwin Fritchie Urquhart & Moore, New Orleans, LA; Daphne M. Lancaster, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; David Michael Melancon, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Edwin A. Ellinghausen, III, Blue Williams, LLP (Metairie), Metairie, LA; Erin Helen Boyd, Blue Williams, LLP (Metairie), Metairie, LA; Gustave A. Fritchie, III, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; John W. Sinnott, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Laura M. Gillen, Blue Williams, LLP (Metairie), Metairie, LA; Michael Kevin Powell, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Timothy Farrow Daniels, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Whitney Charmaine Stewart, Blue Williams, [\*3] LLP, Louisiana, Metairie, LA.

For Eagle Inc, Defendant: Susan Beth Kohn, LEAD ATTORNEY, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; April Ann McQuillar, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Daniel J. Caruso, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Kinler, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Watson Redfearn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA.

For Eagle Inc, Doc. 17, Eagle Inc, Cross Defendants: Susan Beth Kohn, LEAD ATTORNEY, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; April Ann McQuillar, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Daniel J. Caruso, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Kinler, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Watson Redfearn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA.

For Bayer CropScience, Inc., Successor to Rhone Poulenc AG Company formerly known as Amchem Products, Inc. formerly known as Benjamin Foster Co, Defendant: McGready [\*4] Lewis Richeson, LEAD ATTORNEY, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Francis Xavier deBlanc, III, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Kathleen Jordan Brien, McGlinchey Stafford, Houston, TX; Milele N. St. Julien, Pugh Accardo Haas Radecker & Carey, New Orleans, LA; Walter G. Lynch, Jordan, Lynch & Cancienne PLLC, Houston, TX.

For Bayer CropScience, Inc., Successor to Rhone Poulenc AG Company, Doc. 17, Cross Defendant: McGready Lewis Richeson, LEAD ATTORNEY, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Francis Xavier deBlanc, III, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Kathleen Jordan Brien, McGlinchey Stafford, Houston, TX; Milele N. St. Julien, Pugh Accardo Haas Radecker & Carey, New Orleans, LA; Walter G. Lynch, Jordan, Lynch & Cancienne PLLC, Houston, TX.

For Foster Wheeler LLC, formerly known as Foster Wheeler Corporation, CBS Corporation, formerly known as Westinghouse Electric Corporation formerly known as CBS Corporation formerly known as Viacom Inc, Defendants, Cross Defendants: John Joseph Hainkel, III, LEAD ATTORNEY, Frilot L.L.C., New Orleans, LA; Angela [\*5] M. Bowlin, Frilot L.L.C., New Orleans, LA; James H. Brown, Jr., Frilot L.L.C., New Orleans, LA; Kelly L. Long, Frilot L.L.C., New Orleans, LA; Kelsey Eagan, Frilot L.L.C., New Orleans, LA; Lacey Taylor McCoy, Frilot L.L.C., New Orleans, LA; Magali Ann Puente-Martin, Frilot L.L.C., New Orleans, LA; Roth Martin Hainkel, Frilot LLC, New Orleans, LA.

For General Electric Company, Defendant, Cross Defendant: John Joseph Hainkel, III, LEAD ATTORNEY, Frilot L.L.C., New Orleans, LA; Angela M. Bowlin, Frilot L.L.C., New Orleans, LA; David Speziali, Speziali, Greenwald & Hawkins, Williamstown, NJ; James H. Brown, Jr., Frilot L.L.C., New Orleans, LA; John Willard Elder, PRO HAC VICE, Paine, Tarwater, Bickers LLP, Knoxville, TN; Kelly L. Long, Frilot L.L.C., New Orleans, LA; Kelsey Eagan, Frilot L.L.C., New Orleans, LA; Lacey Taylor McCoy, Frilot L.L.C., New Orleans, LA; Magali Ann Puente-Martin, Frilot L.L.C., New Orleans, LA; Roth Martin Hainkel, Frilot LLC, New Orleans, LA.

For General Electric Company, Doc. 17, Cross Defendant: John Joseph Hainkel, III, LEAD ATTORNEY, Frilot L.L.C., New Orleans, LA; Angela M.

Bowlin, Frilot L.L.C., New Orleans, LA; David Speziali, Speziali, Greenwald & Hawkins, [\*6] Williamstown, NJ; James H. Brown, Jr., Frilot L.L.C., New Orleans, LA; John Willard Elder, PRO HAC VICE, Paine, Tarwater, Bickers LLP, Knoxville, TN; Kelly L. Long, Frilot L.L.C., New Orleans, LA; Kelsey Eagan, Frilot L.L.C., New Orleans, LA; Lacey Taylor McCoy, Frilot L.L.C., New Orleans, LA; Magali Ann Puente-Martin, Frilot L.L.C., New Orleans, LA; Roth Martin Hainkel, Frilot LLC, New Orleans, LA.

For Hopeman Brothers Inc, Defendant, Cross Claimant, Cross Defendant: Kaye N. Courington, LEAD ATTORNEY, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Blaine Augusta Moore, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Brittney Bullock Ankersen, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Connor Harris Fields, Jones Walker LLP, New Orleans, LA; Jeffrey Matthew Burg, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Mathilde Villere Semmes, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Troy Nathan Bell, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA.

For Hopeman Brothers Inc, Doc. 17, Cross Defendant: Kaye N. Courington, LEAD ATTORNEY, Courington, Kiefer, Sommers, Marullo & Matherne, [\*7] New Orleans, LA; Blaine Augusta Moore, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Brittney Bullock Ankersen, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Connor Harris Fields, Jones Walker LLP, New Orleans, LA; Jeffrey Matthew Burg, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Mathilde Villere Semmes, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Troy Nathan Bell, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA.

For McCarty Corporation, Successor to McCarty Branton, Inc. and Predecessor and Successor to McCarty Insulation Sales, Inc., Defendant, Cross Defendant: Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; April Ann McQuillar, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Caroline M. Murley, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Douglas Kinler, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Lindsay C. Rabalais, Law Offices of

Dan Claitor, Baton Rouge, LA; Susan Beth [\*8] Kohn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA.

For McCarty Corporation, Successor to McCarty Branton, Inc., and predecessor and successor to McCarty Insulation Sales, Inc., Doc. 17, Cross Defendant: Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; April Ann McQuillar, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Caroline M. Murley, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Douglas Kinler, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Lindsay C. Rabalais, Law Offices of Dan Claitor, Baton Rouge, LA; Susan Beth Kohn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA.

For Taylor-Seidenbach, Inc., Defendant, Cross Defendant: Christopher Kelly Lightfoot, LEAD ATTORNEY, Hailey, McNamara, Hall, Larmann & Papale, LLP (Metairie), Metairie, LA; Edward J. Lassus, Jr., Hailey, McNamara, Hall, Larmann & Papale, LLP (Metairie), Metairie, LA; Gabriel J. Veninata, Hailey, McNamara, Hall, Larmann & Papale, LLP (Metairie), Metairie, LA; Richard [\*9] J. Garvey, Jr., Hailey, McNamara, Hall, Larmann & Papale, LLP (Metairie), Metairie, LA.

For Taylor-Seidenbach, Inc., Doc. 17, Cross Defendant: Christopher Kelly Lightfoot, LEAD ATTORNEY, Hailey, McNamara, Hall, Larmann & Papale, LLP (Metairie), Metairie, LA; Edward J. Lassus, Jr., Hailey, McNamara, Hall, Larmann & Papale, LLP (Metairie), Metairie, LA; Gabriel J. Veninata, Hailey, McNamara, Hall, Larmann & Papale, LLP (Metairie), Metairie, LA; Richard J. Garvey, Jr., Hailey, McNamara, Hall, Larmann & Papale, LLP (Metairie), Metairie, LA.

For Anco Insulations Inc, Defendant: Margaret M. Joffe, LEAD ATTORNEY, Cosmich Simmons & Brown, PLLC, New Orleans, LA; Kenan Slade Rand, Jr, Cosmich Simmons & Brown, PLLC, New Orleans, LA; Shelley L. Thompson, Cosmich Simmons & Brown, New Orleans, LA.

For Riley Power, Inc., formerly known as Babcock Borsig Power, Inc. formerly known as DB Riley Inc formerly known as Riley Stoker Corporation, Defendant: Jamie Hebert Baglio, LEAD ATTORNEY, Pugh, Accardo, LLC (New Orleans), New Orleans, LA; Douglas R. Elliott, Pugh, Accardo, LLC (New Orleans),

New Orleans, LA; McGready Lewis Richeson, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA.

For [\*10] Shell Oil Company, Termed per order at rec. doc. 247, Defendant: Lauren Ann McCulloch Semlinger, LEAD ATTORNEY, Morgan, Lewis & Bockius (Houston), Houston, TX; Mitchell F Tedesco, Morgan, Lewis & Bockius (Houston), Houston, TX.

For Pharmacia LLC, as Successor to Monsanto Company, successor to Monsanto Chemical Company, and successor to Lion Oil Company formerly known as Pharmacia Corporation, Defendant: Darryl J. Foster, LEAD ATTORNEY, Bradley, Murchison, Kelly & Shea, LLC (New Orleans), New Orleans, LA; David Edmund Redmann, Jr., Bradley, Murchison, Kelly & Shea, LLC (New Orleans), New Orleans, LA; Lionel David Adams, Bradley, Murchison, Kelly & Shea, LLC (New Orleans), New Orleans, LA.

For Goodrich Corporation, formerly known as BF Goodrich Company, Defendant: McGready Lewis Richeson, LEAD ATTORNEY, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Jamie Hebert Baglio, Pugh, Accardo, LLC (New Orleans), New Orleans, LA; Thomas A. Porteous, Pugh, Accardo, LLC (New Orleans), New Orleans, LA.

For CF Industries Nitrogen, LLC, formerly known as Terra Mississippi Nitrogen, Inc. formerly known as Mississippi Nitrogen, Inc. formerly known as Triad Nitrogen, Inc., Defendant: [\*11] Barbara Lee Arras, LEAD ATTORNEY, Phelps Dunbar, LLP (New Orleans), New Orleans, LA; Anthony John Gambino, Phelps Dunbar LLP, Baton Rouge, LA; James Alan Harrell, Phelps Dunbar, LLP (Baton Rouge), Baton Rouge, LA.

For BASF Corporation, formerly known as Inmont Corporation formerly known as BASF Wyandotte Corporation formerly known as Wyandotte Chemicals Corporation formerly known as Mew Corporation of Delaware, Defendant: Gregory M. Anding, LEAD ATTORNEY, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Adrienne Wood, Kean Miller LLP, Baton Rouge, LA; Alexandra E. Rossi, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Allison N. Benoit, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Gayla M. Moncla, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Georgia Noble Ainsworth, Kean Miller LLP (New Orleans), New Orleans, LA; Janice M. Culotta, Kean Miller LLP, New Orleans, LA; Jay Morton Jalenak, Jr., Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Karli Glascock Johnson, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA.

For Houston General Insurance Company, Defendant: Daniel Andrew Webb, LEAD ATTORNEY, Beahm & Green, New Orleans, LA; Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, [\*12] Wellons, Politz & Duhe APLC, New Orleans, LA; Caroline M. Murley, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Lindsay C. Rabalais, Law Offices of Dan Claitor, Baton Rouge, LA.

For Berkshire Hathaway Specialty Insurance Company, formerly known as Stonewall Insurance Co, Defendant: Paula Marcello Wellons, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Desiree Weilbaecher Adams, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Jonathan B. Womack, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Mary Elizabeth Ingram, Pipes Miles Beckman, LLC, New Orleans, LA; Samantha Paula Griffin, Taylor, Wellons, Politz & Duhe, APLC, New Orleans, LA.

For United States Fidelity and Guaranty Company, as an alleged insurer of Eagle, Inc., f/k/a Eagle **Asbestos** & Packing Co., Inc, Defendant: Kristopher T. Wilson, LEAD ATTORNEY, Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans), New Orleans, LA; James R. Guidry, Lugenbuhl, Wheaton, Peck, Rankin, & Hubbard, Louisiana, New Orleans, LA; Katherine Osborne Hannan, Lugenbuhl, Wheaton, Peck, Rankin [\*13] & Hubbard (New Orleans), New Orleans, LA; Patricia Cowen Penton, Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans), New Orleans, LA.

For First State Insurance Company, Defendant: John K. Nieset, LEAD ATTORNEY, Christovich & Kearney, LLP, New Orleans, LA; Deandra Nicole De Napoli, Christovich & Kearney, LLP, New Orleans, LA; James Aristide Holmes, Christovich & Kearney, LLP, New Orleans, LA.

For Continental Insurance Company, Successor by merger to Fidelity and Casualty Company of New York, As Alleged Insurer of Halter Marine, Inc. and its Alleged Executive Officers, Defendant: Paula Marcello Wellons, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Jonathan B. Womack, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Paul Jeffrey Verlander, Taylor, Wellons, Politz & Duhe, APLC, New Orleans, LA; Samantha Paula Griffin, Taylor, Wellons, Politz & Duhe, APLC, New Orleans, LA.

For Union Carbide Corporation, Defendant: McGready

Lewis Richeson, LEAD ATTORNEY, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Francis Xavier deBlanc, III, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Kathleen Jordan Brien, McGlinchey Stafford, [\*14] Houston, TX; Kevin M. Jordan, Jordan, Lynch & Cancienne, PLLC, Houston, TX; Milele N. St. Julien, Pugh Accardo Haas Radecker & Carey, New Orleans, LA.

For Entergy Louisiana, L.L.C., Defendant: Cory R. Cahn, LEAD ATTORNEY, Entergy Services, Inc. (New Orleans), New Orleans, LA; Darryl M. Phillips, Entergy Services, Inc. (New Orleans), New Orleans, LA; Walter Scott Brown, Perrier and Lacoste, LLC, New Orleans, LA.

For Liberty Mutual Insurance Company, Defendant: Kaye N. Courington, LEAD ATTORNEY, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Blaine Augusta Moore, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Brittney Bullock Ankersen, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Connor Harris Fields, Jones Walker LLP, New Orleans, LA; Dawn Danna Marullo, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jamie M. Zanovec, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jeffrey Matthew Burg, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Louis Oliver Oubre, Courington, Kiefer, Sommers, Marullo & Matherne, LLC, New Orleans, LA; Mathilde Villere Semmes, Courington, Kiefer, Sommers, [\*15] Marullo & Matherne, New Orleans, LA; Troy Nathan Bell, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA.

For Travelers Indemnity Company, Defendant: Kaye N. Courington, LEAD ATTORNEY, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Dawn Danna Marullo, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jamie M. Zanovec, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jeffrey Matthew Burg, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Louis Oliver Oubre, Courington, Kiefer, Sommers, Marullo & Matherne, LLC, New Orleans, LA; Troy Nathan Bell, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA.

For Louisiana Insurance Guaranty Association, on behalf of American Mutual Liability Insurance Company, Defendant: Edwin Scott Hackenberg, LEAD ATTORNEY, Henchy Law Firm, Henchy, Verbois & Hackenberg, Baton Rouge, LA; Samuel Milton

Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; April Ann McQuillar, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Benjamin M. Chapman, Lafleur & Laborde, LLC, Baton Rouge, LA; Caroline M. Murley, Taylor, Wellons, [\*16] Politz & Duhe, APLC (New Orleans), New Orleans, LA; Daniel J. Caruso, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Kinler, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Watson Redfearn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Francis Christopher Cannone, Taylor Wellons Politz & Duhe, New Orleans, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Lindsay C. Rabalais, Law Offices of Dan Claitor, Baton Rouge, LA; Stephanie B. Laborde, Lafleur & Laborde, LLC, Baton Rouge, LA; Susan Beth Kohn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA.

For Cajun Company, Defendant: Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Caroline M. Murley, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Elizabeth Bailly Bloch, The Kullman Firm, Baton Rouge, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; James L. Pate, NeunerPate (Lafayette), Lafayette, LA; Jeffrey Kyle Coreil, NeunerPate (Lafayette), Lafayette, LA; Lindsay C. Rabalais, [\*17] Law Offices of Dan Claitor, Baton Rouge, LA; Robert Edwin Torian, NeunerPate (Lafayette), Lafayette, LA.

For Albert L Bossier, Jr, Defendant: Gustave A. Fritchie, III, LEAD ATTORNEY, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Alexander R Saunders, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Alison A. Spindler, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Connor Peth, Irwin Fritchie Urquhart & Moore, New Orleans, LA; Daphne M. Lancaster, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; David Michael Melancon, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Edward Winter Trapolin, Irwin Fritchie Urquhart & Moore, LLC, New Orleans, LA; Michael Scott Minyard, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Michael Kevin Powell, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Timothy Farrow Daniels, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA.

For Legacy Vulcan, LLC, Improperly Named Vulcan Materials Company in Plaintiff's Petition for Damages, Defendant: Robert S. Emmett, LEAD ATTORNEY, Baker Donelson Bearman [\*18] Caldwell & Berkowitz (New Orleans), New Orleans, LA; Kimberly C. Delk, Baker Donelson Bearman Caldwell & Berkowitz (New Orleans), New Orleans, LA; Margaret Anna Mentz, Baker Donelson Bearman Caldwell & Berkowitz (New Orleans), New Orleans, LA; Roy Clifton Cheatwood, Baker Donelson Bearman Caldwell & Berkowitz (New Orleans), New Orleans, LA.

For Uniroyal Holding, Inc., Doc. 36, Defendant: Mary Reeves Arthur, LEAD ATTORNEY, Forman, Watkins & Krutz LLP (New Orleans), New Orleans, LA; Amber L. Stewart, Forman Watkins & Krutz LLP, Jackson, MS; Elizabeth Riddell Penn, Forman Watkins & Krutz LLP, Louisiana, New Orleans, LA.

For ViacomCBS Inc, Succesor by merger to CBS Corporation formerly known as CBS Corporation formerly known as Viacom Inc formerly known as Westinghouse Electric Corporation, Defendant: John Joseph Hainkel, III, LEAD ATTORNEY, Frilot L.L.C., New Orleans, LA; Angela M. Bowlin, Frilot L.L.C., New Orleans, LA; Christopher Conley, PRO HAC VICE, Evert Weathersby Houff (Bogart), Bogart, GA; Kelly L. Long, Frilot L.L.C., New Orleans, LA; Kelsey Eagan, Frilot L.L.C., New Orleans, LA; Lacey Taylor McCoy, Frilot L.L.C., New Orleans, LA; Lawrence D. Wilson, PRO HAC VICE, Evert Weathersby [\*19] & Houff, Atlanta, GA; Magali Ann Puente-Martin, Frilot L.L.C., New Orleans, LA; Roth Martin Hainkel, Frilot LLC, New Orleans, LA.

For CF Industries Nitrogen, LLC, Incorrectly named "CF Industries Nitrogen, LLC (f/k/a Terra Mississippi Nitrogen, Inc., f/k/a Mississippi Nitrogen, Inc., f/k/a Triad Nitrogen, Inc.); Doc. 205, Defendant: Barbara Lee Arras, LEAD ATTORNEY, Phelps Dunbar, LLP (New Orleans), New Orleans, LA; Anthony John Gambino, Phelps Dunbar LLP, Baton Rouge, LA; James Alan Harrell, Phelps Dunbar, LLP (Baton Rouge), Baton Rouge, LA.

For Certain Underwriters at Lloyd's London, Doc. 301, Defendant: James R Logan, IV, LEAD ATTORNEY, Logan Law Offices, LLC, New Orleans, LA.

For Louisiana Insurance Guaranty Association, rec. doc. 312, as the alleged statutory obligor for policies issued by Lamorak Insurance Company and Houston General Insurance Company to Eagle, Inc. and McCarty Corporation, and Cajun Company, Defendant: Edwin Scott Hackenberg, LEAD ATTORNEY, Henchy Law

Firm, Henchy, Verbois & Hackenberg, Baton Rouge, LA; April Ann McQuillar, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Benjamin M. Chapman, Lafleur & Laborde, LLC, Baton Rouge, LA; Caroline [\*20] M. Murley, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Daniel J. Caruso, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Kinler, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Watson Redfearn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Francis Christopher Cannone, Taylor Wellons Politz & Duhe, New Orleans, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Lindsay C. Rabalais, Law Offices of Dan Claitor, Baton Rouge, LA; Samuel Milton Rosamond, III, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Stephanie B. Laborde, Lafleur & Laborde, LLC, Baton Rouge, LA; Susan Beth Kohn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA.

For Huntington Ingalls Incorporated, formerly known as Northrop Grumman Shipbuilding, Inc. formerly known as Northrop Grumman Ship Systems, Inc. formerly known as Avondale Industries, Inc. formerly known as Avondale Shipyards, Inc formerly known as Avondale Marine Ways, Inc., Third Party Plaintiff: Brian C. Bossier, LEAD ATTORNEY, Blue Williams, LLP (Metairie), Metairie, LA; Alexander [\*21] R Saunders, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Camala E. Capodice, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Christopher Thomas Grace, III, Blue Williams, LLP (Metairie), Metairie, LA; Connor Peth, Irwin Fritchie Urquhart & Moore, New Orleans, LA; Daphne M. Lancaster, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; David Michael Melancon, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Edwin A. Ellinghausen, III, Blue Williams, LLP (Metairie), Metairie, LA; Erin Helen Boyd, Blue Williams, LLP (Metairie), Metairie, LA; Gustave A. Fritchie, III, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; John W. Sinnott, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Laura M. Gillen, Blue Williams, LLP (Metairie), Metairie, LA; Michael Kevin Powell, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Timothy Farrow Daniels, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Whitney Charmaine Stewart, Blue Williams, LLP, Louisiana, Metairie, LA.

For Huntington Ingalls Incorporated, formerly known as

Northrop Grumman Shipbuilding, [\*22] Inc. formerly known as Northrop Grumman Ship Systems, Inc. formerly known as Avondale Industries, Inc. formerly known as Avondale Shipyards, Inc formerly known as Avondale Marine Ways, Inc., Cross Claimant: Brian C. Bossier, LEAD ATTORNEY, Blue Williams, LLP (Metairie), Metairie, LA; Alexander R Saunders, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Camala E. Capodice, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Christopher Thomas Grace, III, Blue Williams, LLP (Metairie), Metairie, LA; Connor Peth, Irwin Fritchie Urquhart & Moore, New Orleans, LA; Daphne M. Lancaster, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; David Michael Melancon, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Edwin A. Ellinghausen, III, Blue Williams, LLP (Metairie), Metairie, LA; Erin Helen Boyd, Blue Williams, LLP (Metairie), Metairie, LA; Gustave A. Fritchie, III, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; John W. Sinnott, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Laura M. Gillen, Blue Williams, LLP (Metairie), Metairie, LA; Michael Kevin Powell, Irwin Fritchie [\*23] Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Timothy Farrow Daniels, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Whitney Charmaine Stewart, Blue Williams, LLP, Louisiana, Metairie, LA.

For Huntington Ingalls Incorporated, doc. 66, Cross Claimant: Brian C. Bossier, LEAD ATTORNEY, Blue Williams, LLP (Metairie), Metairie, LA; Alexander R Saunders, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Camala E. Capodice, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Christopher Thomas Grace, III, Blue Williams, LLP (Metairie), Metairie, LA; Connor Peth, Irwin Fritchie Urquhart & Moore, New Orleans, LA; Daphne M. Lancaster, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; David Michael Melancon, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Edwin A. Ellinghausen, III, Blue Williams, LLP (Metairie), Metairie, LA; Erin Helen Boyd, Blue Williams, LLP (Metairie), Metairie, LA; Gustave A. Fritchie, III, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; John W. Sinnott, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Laura M. Gillen, Blue Williams, [\*24] LLP (Metairie), Metairie, LA; Michael Kevin Powell, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Timothy Farrow Daniels, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans,

LA; Whitney Charmaine Stewart, Blue Williams, LLP, Louisiana, Metairie, LA.

For Albert L Bossier, Jr, doc. 67, Cross Claimant: Gustave A. Fritchie, III, LEAD ATTORNEY, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Alexander R Saunders, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Alison A. Spindler, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Connor Peth, Irwin Fritchie Urquhart & Moore, New Orleans, LA; Daphne M. Lancaster, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; David Michael Melancon, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Edward Winter Trapolin, Irwin Fritchie Urquhart & Moore, LLC, New Orleans, LA; Michael Scott Minaryard, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Michael Kevin Powell, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Timothy Farrow Daniels, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA.

For Bayer CropScience, as successor to Rhone-Poulenc AG Co. formerly known as Amchem Products, Inc. formerly known as Benjamin Foster Co, Cross Defendant: McGready Lewis Richeson, LEAD ATTORNEY, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Francis Xavier deBlanc, III, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Kathleen Jordan Brien, McGlinchey Stafford, Houston, TX; Milele N. St. Julien, Pugh Accardo Haas Radecker & Carey, New Orleans, LA.

For BASF Corporation, formerly known as Inmont Corporation formerly known as BASF Wyandotte Corporation formerly known as Wyandotte Chemicals Corporation formerly known as Mew Corporation of Delaware, Cross Defendant: Gregory M. Anding, LEAD ATTORNEY, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Adrienne Wood, Kean Miller LLP, Baton Rouge, LA; Alexandra E. Rossi, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Allison N. Benoit, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Gayla M. Moncla, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Georgia Noble Ainsworth, Kean Miller LLP (New Orleans), New Orleans, LA; Janice M. Culotta, Kean Miller LLP, New Orleans, LA; [\*26] Jay Morton Jalenak, Jr., Kean Miller, LLP (Baton Rouge), Baton Rouge, LA; Karli Glascock Johnson, Kean Miller, LLP (Baton Rouge), Baton Rouge, LA.

For United States Fidelity and Guaranty Company, as insurer of Eagle, Inc., Cross Defendant: Kristopher T.

Wilson, LEAD ATTORNEY, Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans), New Orleans, LA; James R. Guidry, Lugenbuhl, Wheaton, Peck, Rankin, & Hubbard, Louisiana, New Orleans, LA; Katherine Osborne Hannan, Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans), New Orleans, LA; Patricia Cowen Penton, Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans), New Orleans, LA.

For Louisiana Insurance Guaranty Association, on behalf of American Mutual Liability Insurance Company, as insurer of Gabler Insulations and/or Gabler Insulations, Inc., Cross Defendant: Edwin Scott Hackenberg, LEAD ATTORNEY, Henchy Law Firm, Henchy, Verbois & Hackenberg, Baton Rouge, LA; Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; April Ann McQuillar, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Benjamin M. Chapman, Lafleur & Laborde, LLC, Baton Rouge, LA; Caroline M. Murley, [\*27] Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Daniel J. Caruso, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Kinler, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Douglas Watson Redfearn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA; Francis Christopher Cannone, Taylor Wellons Politz & Duhe, New Orleans, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Lindsay C. Rabalais, Law Offices of Dan Claitor, Baton Rouge, LA; Stephanie B. Laborde, Lafleur & Laborde, LLC, Baton Rouge, LA; Susan Beth Kohn, Simon, Peragine, Smith & Redfearn, LLP (New Orleans), New Orleans, LA.

For CF Industries Nitrogen, LLC, doc. 66, incorrectly named "CF Industries Nitrogen, LLC (f/k/a Terra Mississippi Nitrogen, Inc., f/k/a Mississippi Nitrogen, Inc., f/k/a Triad Nitrogen, Inc.), Cross Defendant: Barbara Lee Arras, LEAD ATTORNEY, Phelps Dunbar, LLP (New Orleans), New Orleans, LA; Anthony John Gambino, Phelps Dunbar LLP, Baton Rouge, LA; James Alan Harrell, Phelps Dunbar, LLP (Baton Rouge), Baton Rouge, LA.

For CF Industries Nitrogen, LLC, doc. 67, incorrectly [\*28] named "CF Industries Nitrogen, LLC (f/k/a Terra Mississippi Nitrogen, Inc., f/k/a Mississippi Nitrogen, Inc., f/k/a Triad Nitrogen, Inc.), Cross Defendant: Barbara Lee Arras, LEAD ATTORNEY, Phelps Dunbar, LLP (New Orleans), New Orleans, LA; Anthony John Gambino, Phelps Dunbar LLP, Baton

Rouge, LA; James Alan Harrell, Phelps Dunbar, LLP (Baton Rouge), Baton Rouge, LA.

For Albert L Bossier, Jr, Doc. 17, Cross Claimant: Gustave A. Fritchie, III, LEAD ATTORNEY, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Alexander R Saunders, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Alison A. Spindler, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Connor Peth, Irwin Fritchie Urquhart & Moore, New Orleans, LA; Daphne M. Lancaster, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; David Michael Melancon, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Edward Winter Trapolin, Irwin Fritchie Urquhart & Moore, LLC, New Orleans, LA; Michael Scott Minaryard, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Michael Kevin Powell, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), [\*29] New Orleans, LA; Timothy Farrow Daniels, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA.

For Liberty Mutual Insurance Company, as insurer of B&B Engineering and Supply Company of Louisiana and Wayne Manufacturing Company, Doc. 17, Cross Defendant: Kaye N. Courington, LEAD ATTORNEY, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Blaine Augusta Moore, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Brittney Bullock Ankersen, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Connor Harris Fields, Jones Walker LLP, New Orleans, LA; Dawn Danna Marullo, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jamie M. Zanovec, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jeffrey Matthew Burg, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Louis Oliver Oubre, Courington, Kiefer, Sommers, Marullo & Matherne, LLC, New Orleans, LA; Mathilde Villere Semmes, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Troy Nathan Bell, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA.

For International Paper Company, individually and as successor-by-merger [\*30] with Champion International Corp., successor-by-merger with U.S. Plywood Corp., Doc. 17, Cross Defendant: Walter G. Watkins, III, LEAD ATTORNEY, Forman, Watkins, & Krutz, LLP (Jackson), Jackson, MS; Amber L. Stewart, Forman Watkins & Krutz LLP, Jackson, MS; Daniel S Roberts, Forman, Watkins & Krutz LLP (New Orleans), New Orleans, LA; Elizabeth Riddell Penn, Forman Watkins & Krutz LLP,

New Orleans, LA; Mary Reeves Arthur, Forman, Watkins & Krutz LLP (New Orleans), New Orleans, LA; Thomas Peyton Smith, Forman, Watkins & Krutz LLP (New Orleans), New Orleans, LA.

For Anco Insulations Inc, Doc. 17, Cross Defendant: Margaret M. Joffe, LEAD ATTORNEY, Cosmich Simmons & Brown, PLLC, New Orleans, LA; Kenan Slade Rand, Jr, Cosmich Simmons & Brown, PLLC, New Orleans, LA; Shelley L. Thompson, Cosmich Simmons & Brown, New Orleans, LA.

For Riley Power, Inc., Doc. 17 formerly known as Babcock Borsig Power, Inc. formerly known as DB Riley Inc formerly known as Riley Stoker Corporation, Cross Defendant: Jamie Hebert Baglio, LEAD ATTORNEY, Pugh, Accardo, LLC (New Orleans), New Orleans, LA; Douglas R. Elliott, Pugh, Accardo, LLC (New Orleans), New Orleans, LA; McGready Lewis Richeson, Pugh, Accardo, Haas, [\*31] Radecker & Carey (New Orleans), New Orleans, LA.

For Pharmacia LLC, as successor to Monsanto Company, successor to Monsanto Chemical Company, and successor to Lion Oil Company, Doc. 17 formerly known as Pharmacia Corporation, Cross Defendant: Darryl J. Foster, LEAD ATTORNEY, Bradley, Murchison, Kelly & Shea, LLC (New Orleans), New Orleans, LA; David Edmund Redmann, Jr., Bradley, Murchison, Kelly & Shea, LLC (New Orleans), New Orleans, LA; Lionel David Adams, Bradley, Murchison, Kelly & Shea, LLC (New Orleans), New Orleans, LA.

For Shell Oil Company, Doc. 17, Cross Defendant: Lauren Ann McCulloch Semlinger, LEAD ATTORNEY, Morgan, Lewis & Bockius (Houston), Houston, TX; Mitchell F Tedesco, Morgan, Lewis & Bockius (Houston), Houston, TX.

For Goodrich Corporation, Doc. 17 formerly known as BF Goodrich Company, Cross Defendant: McGready Lewis Richeson, LEAD ATTORNEY, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Jamie Hebert Baglio, Pugh, Accardo, LLC (New Orleans), New Orleans, LA; Thomas A. Porteous, Pugh, Accardo, LLC (New Orleans), New Orleans, LA.

For CF Industries Nitrogen, LLC, Doc. 17 formerly known as Terra Mississippi Nitrogen, Inc. formerly known as Mississippi [\*32] Nitrogen, Inc. formerly known as Triad Nitrogen, Inc., Cross Defendant: Barbara Lee Arras, LEAD ATTORNEY, Phelps Dunbar, LLP (New Orleans), New Orleans, LA; Anthony John Gambino, Phelps Dunbar LLP, Baton Rouge, LA; James Alan Harrell, Phelps Dunbar, LLP (Baton Rouge), Baton Rouge, LA.



For Continental Insurance Company, successor by merger to Fidelity and Casualty Company of New York, as insurer of Halter marine, Inc. and its executive officers Harold P. Halter, James A. Dubuisson, Jr., Floyd Naquin, and Oliver Hebert, Doc. 17, Cross Defendant: Paula Marcello Wellons, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Jonathan B. Womack, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Paul Jeffrey Verlander, Taylor, Wellons, Politz & Duhe, APLC, New Orleans, LA; Samantha Paula Griffin, Taylor, Wellons, Politz & Duhe, APLC, New Orleans, LA.

For Houston General Insurance Company, as insurer of Eagle, Inc., Doc. 17, Cross Defendant: Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Caroline M. Murley, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Daniel Andrew Webb, Beahm & Green, New Orleans, [\*33] LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Lindsay C. Rabalais, Law Offices of Dan Claitor, Baton Rouge, LA.

For Berkshire Hathaway Specialty Insurance Company, as insurer of Eagle, Inc., Doc. 17 formerly known as Stonewall Insurance Co, Cross Defendant: Desiree Weilbaecher Adams, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Jonathan B. Womack, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA.

For First State Insurance Company, as insurer of Eagle, Inc., Doc. 17, Cross Defendant: John K. Nieset, LEAD ATTORNEY, Christovich & Kearney, LLP, New Orleans, LA; Deandra Nicole De Napoli, Christovich & Kearney, LLP, New Orleans, LA; James Aristide Holmes, Christovich & Kearney, LLP, New Orleans, LA.

For Union Carbide Corporation, Doc. 17, Cross Defendant: McGready Lewis Richeson, LEAD ATTORNEY, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Francis Xavier deBlanc, III, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Kathleen Jordan Brien, McGlinchey Stafford, Houston, TX; Kevin M. Jordan, Jordan, Lynch & Cancienne, PLLC, Houston, TX; Milele N. St. Julien, Pugh Accardo Haas [\*34] Radecker & Carey, New Orleans, LA.

For Entergy Louisiana, L.L.C., Doc. 17, Cross Defendant: Cory R. Cahn, LEAD ATTORNEY, Entergy Services, Inc. (New Orleans), New Orleans, LA; Darryl M. Phillips, Entergy Services, Inc. (New Orleans), New Orleans, LA; Walter Scott Brown, Perrier and Lacoste,

LLC, New Orleans, LA.

For Travelers Indemnity Company, As the Insurer of B&B Engineering and Supply Company of Louisiana, Doc. 17, Cross Defendant: Kaye N. Courington, LEAD ATTORNEY, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Dawn Danna Marullo, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jamie M. Zанovec, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jeffrey Matthew Burg, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Louis Oliver Oubre, Courington, Kiefer, Sommers, Marullo & Matherne, LLC, New Orleans, LA; Troy Nathan Bell, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA.

For Cajun Company, doc. 17, Cross Defendant: Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Caroline M. Murley, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; [\*35] Elizabeth Bailly Bloch, The Kullman Firm, Baton Rouge, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; James L. Pate, NeunerPate (Lafayette), Lafayette, LA; Jeffrey Kyle Coreil, NeunerPate (Lafayette), Lafayette, LA; Lindsay C. Rabalais, Law Offices of Dan Claitor, Baton Rouge, LA; Robert Edwin Torian, NeunerPate (Lafayette), Lafayette, LA.

For United States Fidelity and Guaranty Company, as the insurer of Eagle, Inc., Doc. 17, Cross Defendant: Kristopher T. Wilson, LEAD ATTORNEY, Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans), New Orleans, LA; James R. Guidry, Lugenbuhl, Wheaton, Peck, Rankin, & Hubbard, Louisiana, New Orleans, LA; Katherine Osborne Hannan, Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans), New Orleans, LA; Patricia Cowen Penton, Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans), New Orleans, LA.

For Uniroyal Holding, Inc., Doc. 36, Cross Defendant: Mary Reeves Arthur, Forman, Watkins & Krutz LLP (New Orleans), New Orleans, LA; Amber L. Stewart, Forman Watkins & Krutz LLP, Jackson, MS; Elizabeth Riddell Penn, Forman Watkins & Krutz LLP, New Orleans, LA.

For Anco Insulations Inc, Cross Defendant: Margaret [\*36] M. Joffe, LEAD ATTORNEY, Cosmich Simmons & Brown, PLLC, New Orleans, LA; Kenan Slade Rand, Jr, Cosmich Simmons & Brown, PLLC, New Orleans, LA; Shelley L. Thompson, Cosmich Simmons & Brown, New Orleans, LA.

For Axiall Corporation DE, Cross Defendant: David Mark Bienvenu, Jr., LEAD ATTORNEY, Bienvenu, Bonnacaze, Foco & Viator, LLC, Baton Rouge, LA; F. Charles Marionneaux, Bienvenu, Bonnacaze, Foco & Viator, LLC, LA, Baton Rouge, LA; John Allain Viator, Bienvenu, Bonnacaze, Foco & Viator, LLC, Baton Rouge, LA; Lexi T. Holinga, Hinshaw & Culbertson LLP, Baton Rouge, LA; Melissa Jade Shaffer, Bienvenu, Bonnacaze, Foco, Viator & Holinga, APLLC, Baton Rouge, LA; Samantha Kennedy, Bienvenu Bonnacaze Foco & Viator LLC, Baton Rouge, LA; Thomas Clay Naquin, Bienvenu, Bonnacaze, Foco, Viator & Holinga APLLC, Baton Rouge, LA.

For Berkshire Hathaway Specialty Insurance Company, Cross Defendant: Desiree Weilbaecher Adams, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Jonathan B. Womack, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA.

For CF Industries Nitrogen, LLC, Cross Defendant: Barbara Lee Arras, LEAD ATTORNEY, Phelps Dunbar, LLP (New Orleans), New Orleans, LA; Anthony [\*37] John Gambino, Phelps Dunbar LLP, Baton Rouge, LA; James Alan Harrell, Phelps Dunbar, LLP (Baton Rouge), Baton Rouge, LA.

For Cajun Company, Cross Defendant: Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Caroline M. Murley, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Elizabeth Bailly Bloch, The Kullman Firm, Baton Rouge, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; James L. Pate, NeunerPate (Lafayette), Lafayette, LA; Jeffrey Kyle Coreil, NeunerPate (Lafayette), Lafayette, LA; Lindsay C. Rabalais, Law Offices of Dan Claitor, Baton Rouge, LA; Robert Edwin Torian, NeunerPate (Lafayette), Lafayette, LA.

For Continental Insurance Company, Successor by merger to Fidelity and Casualty Company of New York, Cross Defendant: Paula Marcello Wellons, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Jonathan B. Womack, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Paul Jeffrey Verlander, Taylor, Wellons, Politz & Duhe, APLC, New Orleans, LA; Samantha Paula Griffin, Taylor, Wellons, Politz & Duhe, APLC, New Orleans, LA.

For Entergy Louisiana, L.L.C., [\*38] Cross Defendant: Cory R. Cahn, LEAD ATTORNEY, Entergy Services, Inc. (New Orleans), New Orleans, LA; Darryl M. Phillips, Entergy Services, Inc. (New Orleans), New Orleans, LA;

Walter Scott Brown, Perrier and Lacoste, LLC, New Orleans, LA.

For First State Insurance Company, Cross Defendant: John K. Nieset, LEAD ATTORNEY, Christovich & Kearney, LLP, New Orleans, LA; Deandra Nicole De Napoli, Christovich & Kearney, LLP, New Orleans, LA; James Aristide Holmes, Christovich & Kearney, LLP, New Orleans, LA.

For Goodrich Corporation, Cross Defendant: McGready Lewis Richeson, LEAD ATTORNEY, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Jamie Hebert Baglio, Pugh, Accardo, LLC (New Orleans), New Orleans, LA; Thomas A. Porteous, Pugh, Accardo, LLC (New Orleans), New Orleans, LA.

For Houston General Insurance Company, Cross Defendant: Samuel Milton Rosamond, III, LEAD ATTORNEY, Taylor, Wellons, Politz & Duhe APLC, New Orleans, LA; Caroline M. Murley, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Daniel Andrew Webb, Beahm & Green, New Orleans, LA; Gina Talluto Cursain, Taylor, Wellons, Politz & Duhe, APLC (New Orleans), New Orleans, LA; Lindsay C. Rabalais, [\*39] Law Offices of Dan Claitor, Baton Rouge, LA.

For International Paper Company, Cross Defendant: Walter G. Watkins, III, LEAD ATTORNEY, Forman, Watkins, & Krutz, LLP (Jackson), Jackson, MS; Amber L. Stewart, Forman Watkins & Krutz LLP, Jackson, MS; Daniel S Roberts, Forman, Watkins & Krutz LLP (New Orleans), New Orleans, LA; Elizabeth Riddell Penn, Forman Watkins & Krutz LLP, New Orleans, LA; Mary Reeves Arthur, Forman, Watkins & Krutz LLP (New Orleans), New Orleans, LA; Thomas Peyton Smith, Forman, Watkins & Krutz LLP (New Orleans), New Orleans, LA.

For Liberty Mutual Insurance Company, Cross Defendant: Kaye N. Courington, LEAD ATTORNEY, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Blaine Augusta Moore, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Brittney Bullock Ankersen, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Connor Harris Fields, Jones Walker LLP, New Orleans, LA; Dawn Danna Marullo, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jamie M. Zanovec, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jeffrey Matthew Burg, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, [\*40] LA; Louis Oliver Oubre, Courington, Kiefer, Sommers, Marullo & Matherne, LLC, New

Orleans, LA; Mathilde Villere Semmes, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Troy Nathan Bell, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA.

For Pharmacia LLC, as Successor to Monsanto Company, successor to Monsanto Chemical Company, and successor to Lion Oil Company, Cross Defendant: Darryl J. Foster, LEAD ATTORNEY, Bradley, Murchison, Kelly & Shea, LLC (New Orleans), New Orleans, LA; David Edmund Redmann, Jr., Bradley, Murchison, Kelly & Shea, LLC (New Orleans), New Orleans, LA; Lionel David Adams, Bradley, Murchison, Kelly & Shea, LLC (New Orleans), New Orleans, LA.

For Riley Power, Inc., Cross Defendant: Jamie Hebert Baglio, LEAD ATTORNEY, Pugh, Accardo, LLC (New Orleans), New Orleans, LA; Douglas R. Elliott, Pugh, Accardo, LLC (New Orleans), New Orleans, LA; McGready Lewis Richeson, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA.

For Shell Oil Company, Cross Defendant: Lauren Ann McCulloch Semlinger, LEAD ATTORNEY, Morgan, Lewis & Bockius (Houston), Houston, TX; Mitchell F Tedesco, Morgan, Lewis & Bockius (Houston), Houston, TX.

For [\*41] Travelers Indemnity Company, Cross Defendant: Kaye N. Courington, LEAD ATTORNEY, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Dawn Danna Marullo, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jamie M. Zanovec, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Jeffrey Matthew Burg, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA; Louis Oliver Oubre, Courington, Kiefer, Sommers, Marullo & Matherne, LLC, New Orleans, LA; Troy Nathan Bell, Courington, Kiefer, Sommers, Marullo & Matherne, New Orleans, LA.

For Union Carbide Corporation, Cross Defendant: McGready Lewis Richeson, LEAD ATTORNEY, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Francis Xavier deBlanc, III, Pugh, Accardo, Haas, Radecker & Carey (New Orleans), New Orleans, LA; Kathleen Jordan Brien, McGlinchey Stafford, Houston, TX; Kevin M. Jordan, Jordan, Lynch & Cancienne, PLLC, Houston, TX; Milele N. St. Julien, Pugh Accardo Haas Radecker & Carey, New Orleans, LA.

For Albert L Bossier, Jr, Third Party Plaintiff: Gustave A. Fritchie, III, LEAD ATTORNEY, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Alexander R [\*42] Saunders, Irwin Fritchie Urquhart &

Moore, LLC (New Orleans), New Orleans, LA; Alison A. Spindler, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Connor Peth, Irwin Fritchie Urquhart & Moore, New Orleans, LA; Daphne M. Lancaster, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; David Michael Melancon, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Edward Winter Trapolin, Irwin Fritchie Urquhart & Moore, LLC, New Orleans, LA; Michael Scott Minyard, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Michael Kevin Powell, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA; Timothy Farrow Daniels, Irwin Fritchie Urquhart & Moore, LLC (New Orleans), New Orleans, LA.

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For Trinity Industries, Inc., Doc. 198; termed per order at rec. doc. 658, Cross Defendant: Robert S. Emmett, LEAD ATTORNEY, Baker Donelson Bearman Caldwell & Berkowitz (New Orleans), New Orleans, LA; Kimberly C. Delk, Baker Donelson Bearman Caldwell & Berkowitz (New Orleans), New Orleans, LA; Roy Clifton Cheatwood, Baker Donelson Bearman Caldwell & Berkowitz (New Orleans), New Orleans, LA.

**Judges:** SARAH S. VANCE, UNITED STATES DISTRICT JUDGE.

**Opinion by:** SARAH S. VANCE

## Opinion

### ORDER AND REASONS

Before the Court is a motion *in limine* to limit the testimony of Gerard L. Baril filed by Eagle, Inc. ("Eagle") and Louisiana Insurance Guaranty Association [\*45] ("LIGA"), as alleged statutory obligor for policies issued to Eagle and the McCarty Corporation ("McCarty").<sup>1</sup> Plaintiffs oppose the motion.<sup>2</sup> For the following reasons, defendants' motion is granted in part.

#### I. BACKGROUND

This is an asbestos exposure case. Plaintiffs allege that Callen Cortez contracted mesothelioma as a result of exposure to asbestos over the course of his career,<sup>3</sup> as well as take-home exposure resulting from his father's<sup>4</sup>

and brothers' work when the family shared a home.<sup>5</sup>

Callen Cortez was diagnosed with mesothelioma on June 2, 2020.<sup>6</sup> On July 1, 2020, he filed suit in the Civil District Court for the Parish of Orleans against Avondale and approximately thirty-four other defendants, including former employers, manufacturers, and insurance companies.<sup>7</sup> In his complaint, plaintiff brought various products liability, negligence, and intentional tort claims.<sup>8</sup> As it pertains to the present motion, plaintiff alleges that Eagle and McCarty, among others, were former suppliers and distributors of asbestos-containing products.<sup>9</sup> Plaintiff specifically alleges that Eagle and McCarty "would package [asbestos-containing] products from other distributors and manufacturers . . . in their own [\*46] boxes and packaging, and hold out the products as their own, thus making them liable as the manufacturer under Louisiana law."<sup>10</sup>

On August 31, 2020, the case was removed to federal court.<sup>11</sup> Callen Cortez passed away on May 26, 2022.<sup>12</sup> Cortez's surviving spouse and children subsequently filed an amended complaint on June 6, 2022,<sup>13</sup> substituting themselves as plaintiffs in a survival action and seeking additional damages arising from Cortez's wrongful death.<sup>14</sup>

Defendants now move to limit the testimony of plaintiffs' expert industrial hygienist, Gerard L. Baril.<sup>15</sup> Specifically, defendants ask the Court to prevent Mr. Baril from testifying or making a legal determination as to the definition of a manufacturer under Louisiana

<sup>5</sup> R. Doc. 149 at 1-2 (Second Amended Complaint ¶¶ 94-95).

<sup>6</sup> R. Doc. 1-1 at 10 (Complaint ¶ 17).

<sup>7</sup> *Id.* at 1-3 (Complaint ¶¶ 1-2); *id.* at 45-48.

<sup>8</sup> R. Doc. 1-1.

<sup>9</sup> R. Doc. 447-2 at 2; see also R. Doc. 1-1 at 24-25 (Complaint ¶ 53).

<sup>10</sup> *Id.*

<sup>11</sup> R. Doc. 1 (Notice of Removal).

<sup>12</sup> R. Doc. 1026 at 2 (Fourth Amended Complaint ¶ 111).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 2-3 (Fourth Amended Complaint ¶¶ 111-114).

<sup>15</sup> R. Doc. 447.

<sup>1</sup> R. Doc. 447.

<sup>2</sup> R. Doc. 662.

<sup>3</sup> R. Doc. 1-1 at 3-6 (Complaint ¶¶ 3, 8).

<sup>4</sup> *Id.* at 7-9 (Complaint ¶¶ 11-16).

law.<sup>16</sup> Plaintiffs oppose the motion, asserting that Mr. Baril does not opine on the definition of a manufacturer under Louisiana law.<sup>17</sup> The Court considers the parties' arguments below.

## II. DISCUSSION

The district court has considerable discretion to admit or exclude expert testimony under [Federal Rule of Evidence 702](#). See [Gen. Elec. Co. v. Joiner, 522 U.S. 136, 138-39, 118 S. Ct. 512, 139 L. Ed. 2d 508 \(1997\)](#); [Seatrax, Inc. v. Sonbeck Int'l, Inc., 200 F.3d 358, 371 \(5th Cir. 2000\)](#). [Rule 702](#), which governs the admissibility of expert witness testimony, provides that an expert witness "qualified . . . by knowledge, skill, experience, training, or education [\*47] may testify" if:

- (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or determine a fact in issue;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert has reliably applied the principles and methods to the facts of the case.

[Fed. R. Evid. 702](#). But experts may not provide "legal conclusions or . . . simply tell the jury what result to reach." [Owen v. Kerr-McGee Corp., 698 F.2d 236, 240 \(5th Cir. 1983\)](#); [McBroom v. Payne, 478 F. App'x 196, 200 \(5th Cir. 2012\)](#) (per curiam). Similarly, a court "should refuse to allow an expert witness to testify if it finds that the witness is not qualified to testify in a particular field or on a given subject." [Huss v. Gayden, 571 F.3d 442, 452 \(5th Cir. 2009\)](#).

Here, defendants seek to prevent plaintiffs' expert industrial hygienist, Mr. Baril, from testifying or making a legal determination as to the definition of a manufacturer under Louisiana law.<sup>18</sup> Based on testimony that Mr. Baril has given in other **asbestos** cases, defendants anticipate that plaintiffs will offer testimony from Mr. Baril that a supplier that places its name on a box with **asbestos**-containing products is considered a

manufacturer.<sup>19</sup> Defendants note that Mr. Baril has previously given the following testimony: [\*48]

A. Every manufacturer, supplier, distributor, equipment manufacturer, if they had materials, products which had **asbestos** as a component, **asbestos** probably would be released as a result of activities being performed, then yes, they needed to provide a hazard warning.

Q. And did you see testimony, for example, Mr. Comardelle, he identified several of these suppliers to Avondale. For example, Eagle, McCarty, . . .

A. That's right.

Q. Did you see where Mr. Comardelle indicated that these suppliers would put their names on the boxes of the insulation?

A. Yes, he stated that.

...

Q. And as an industrial hygienist, what does that indicate to you when a supplier is placing its name on a box?

A. It means if a supplier, distributor puts their name on the box, the ownership of that product is theirs. That makes the warning information—hazard warning their responsibility.

Q. So essentially they're holding out to the public that they're an actual manufacturer of the product, correct?

A. Right. That's correct.<sup>20</sup>

Defendants now move to prevent Mr. Baril from giving similar testimony at this trial, asserting that Mr. Baril fails to meet the *Daubert* criteria to qualify as an expert [\*49] about the definition of a manufacturer under Louisiana law.<sup>21</sup> In response, plaintiffs assert that defendants are seeking to exclude an opinion that Mr. Baril has not offered here, noting that defendants have not cited to any statement in Mr. Baril's report or deposition in this case, and instead rely on Mr. Baril's deposition from a

<sup>19</sup> R. Doc. 447-2 at 5.

<sup>20</sup> R. Doc. 447-4 at 229:22-230:24 (Deposition testimony of Gerard L. Baril, *Tregre v. Penn. Gen. Ins. Co.*, No. 15-4474 (Civ. Dist. Ct. for the Par. of Orleans, Feb. 4, 2016)).

<sup>21</sup> R. Doc. 447-2 at 4.

<sup>16</sup> *Id.* at 1.

<sup>17</sup> R. Doc. 662 at 1.

<sup>18</sup> R. Doc. 447 at 1.

previous **asbestos** case.<sup>22</sup> Additionally, plaintiffs assert that even if Mr. Baril were to offer the testimony cited by defendants in the present case, it would be admissible under [Rule 702](#) because Mr. Baril's testimony does not purport to opine on Eagle's or McCarty's legal status as manufacturers under Louisiana law.<sup>23</sup> Instead, plaintiffs represent that Mr. Baril opines that when a company places its name on a box of insulation, it is "holding the product out as its own," and that, as an industrial hygiene professional, Mr. Baril "looks to that company to obtain information regarding the hazards of the product."<sup>24</sup>

Plaintiffs seek to hold Eagle and McCarty liable as professional vendors. Under Louisiana law, a supplier of a product can be held strictly liable as a manufacturer if the plaintiff proves that the seller qualifies as a "professional vendor." [Dempster v. Lamorak Ins. Co., No. 20-95, 2020 U.S. Dist. LEXIS 174317, 2020 WL 5659546, at \\*3 \(E.D. La. Sept. 21, 2020\)](#) (citing [Hoerner v. ANCO Ins., Inc., 812 So. 2d 45, 59 \(La. App. 4 Cir. 2002\)](#)). **[\*50]** "To prevail against a professional vendor of **asbestos**-containing products, a plaintiff must show: (1) the defendant held the products out to the public as its own, and (2) the size, volume, and merchandising practices of the defendant bring it within the class of professional vendors, who are presumed to know the defects in their wares." *Id.* (citing [Hoerner, 812 So. 2d at 60](#)).

The Court finds Mr. Baril qualified to offer testimony that as an industrial hygienist, he would look to the company whose name is on the product for information regarding the hazardous nature of the product. But Mr. Baril may not testify that a supplier or distributor that places its name on a box containing insulation should be considered a manufacturer of that product because they are holding the product out to the public as their own. The determination of whether suppliers, such as Eagle and McCarty, are "professional vendors," which includes the question of whether Eagle and McCarty held out the products as their own to the public, are legal questions, and are not a proper subject for the testimony of an expert industrial hygienist. Accordingly, the Court grants defendants' motion to the extent it seeks to prohibit Mr. Baril from **[\*51]** testifying that a supplier that places its name on a box of insulation should be considered the

manufacturer of that insulation.

### III. CONCLUSION

For the foregoing reasons, defendants' motion to limit Mr. Baril's testimony is GRANTED to the extent that Mr. Baril is precluded from testifying that a supplier that places its name on a box containing insulation should legally be considered the manufacturer of that insulation.

To the extent defendants seek to limit Mr. Baril's testimony beyond this, the motion is DENIED.

New Orleans, Louisiana, this 20th day of July, 2022.

/s/ Sarah S. Vance

SARAH S. VANCE

UNITED STATES DISTRICT JUDGE

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End of Document

<sup>22</sup> R. Doc. 662 at 1.

<sup>23</sup> *Id.* at 3.

<sup>24</sup> *Id.*