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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

JEROME ZETZSCHE and CAROL
ZETZSCHE, husband and wife,

Plaintiffs,

No.

COMPLAINT FOR PERSONAL
INJURIES

v.

ABB, INC.;
A.W. CHESTERTON COMPANY;
CBS CORPORATION, a Delaware
corporation, f/k/a VIACOM, INC.,
successor by merger to CBS
CORPORATION, a Pennsylvania
corporation, f/k/a WESTINGHOUSE
ELECTRIC CORPORATION and also as
successor-in-interest to BF STURTEVANT;
CRANE CO., individually and as successor-
in-interest to CHAPMAN VALVE CO. and
DEMING PUMPS;
GENERAL ELECTRIC COMPANY;
IMO INDUSTRIES, INC., individually and
as successor-in-interest to DE LAVAL
TURBINE, INC.;;
INDUCTOTHERM CORP.;
LONE STAR INDUSTRIES, INC.,
individually and as successor-in-interest to
PIONEER SAND & GRAVEL COMPANY
**METROPOLITAN LIFE INSURANCE
COMPANY;**
**NORTH COAST ELECTRIC
COMPANY;**
PFIZER, INC.

Defendants.

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COMES NOW Plaintiffs Jerome and Carol Zetsche, and pray for relief as follows:

I. PARTIES

A. Plaintiffs Jerome and Carol Zetsche reside in Cle Elum, Washington.

B. Defendants and/or their predecessors-in-interest are corporations who, at all times relevant herein, manufactured, sold, distributed, or used asbestos-containing products, or products that were used in conjunction with asbestos or included asbestos-containing components that were necessary for their proper functioning.

II. JURISDICTION

A. This Court has jurisdiction over this cause pursuant to RCW 4.12.025 because, at all times relevant herein, defendants transacted business and/or may be served with process in King County, Washington. This Court has specific jurisdiction over all out-of-state defendants because they each purposefully performed acts or consummated transactions in Washington State; Plaintiffs' cause of action arises out of and/or relates to defendants' activities and/or transactions in Washington State; and assumption of jurisdiction over such out-of-state defendants by this Court does not offend traditional notions of fair play and substantial justice.

III. FACTUAL ALLEGATIONS

A. Plaintiff Jerome Zetsche (DOB: July 19, 1945) was exposed to asbestos and/or asbestos-containing products which had been mined, manufactured, produced, specified, and/or placed into the stream of commerce by the defendants and was exposed to asbestos used by defendants and/or in conjunction with defendants' products. As a direct and proximate result of these exposures, Plaintiff Jerome Zetsche developed mesothelioma in September 2021.

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B. Plaintiffs provide the following additional information:

- 1) Specific Disease: Mesothelioma
- 2) Date of Diagnosis: September 2021
- 3) Military: U. S. Navy
- 4) Occupations: Navy Molder (ML2); Smeltermen; Shop 74 Fabric Worker
- 5) Places of Exposure Plaintiff Jerome Zetzsche was exposed to asbestos while serving aboard the USS Jason (AR-8); at the American Smelting and Refining Company plant (ASARCO) in Ruston, WA; and at Puget Sound Naval Shipyard in Bremerton, WA.
- 6) Dates of Exposure: U.S. Navy: 1964 – 1968;
ASARCO: Approximately 1970 – 1973;
Puget Sound Naval Shipyard: 1973 to December 4, 1980. This Complaint does not allege exposure on or after December 5, 1980.
- 7) Current Address: 151 Twin Lakes Road
Cle Elum, WA 98922

IV. LIABILITY

A. Plaintiffs claim liability based upon the theories of negligence; strict product liability under Section 402A of the Restatement of Torts; premises liability; conspiracy; strict liability for abnormally dangerous activities; and wanton and willful misconduct. The liability-creating conduct of defendants other than Metropolitan Life Insurance Company consisted, *inter alia*, of negligent and unsafe design; failure to inspect, test, warn, instruct, monitor and/or recall; failure to substitute safe products; marketing or installing unreasonably dangerous or extra-hazardous and/or defective products; marketing, maintaining or installing products not reasonably safe as designed; marketing, maintaining or installing products not reasonably safe

1 for lack of adequate warnings; and marketing, maintaining, or installing products with
2 misrepresentations of product safety.

3 B. Plaintiffs expressly disclaim and are not seeking relief for any and all claims
4 for injury against any defendant whose conduct, whether by omission or commission, was
5 engaged in at the behest of the United States or any agency or person acting under him or under
6 color of such office to the extent such a claim would implicate federal court jurisdiction under
7 the federal officer removal statute, 28 U.S.C. §1442(a)(1), predicated on the government
8 contractor's defense articulated in *Boyle v. United Technologies Corp.*, 487 U.S. 500 (1988).
9 Most specifically with respect to Plaintiff's state tort law failure-to-warn claims, Plaintiff
10 alleges that no U.S. agency, officer, or person prohibited or forbid any defendant in this case
11 from issuing and placing warnings on or with its products. Such a showing is mandatory for
12 any defendant to meet the *Boyle* test. All such claims that legitimately implicate such a
13 defense—in the unlikely event that they exist and are factually supported—are not asserted
14 and are hereby expressly and preemptively disclaimed. Plaintiff hereby puts any defendant on
15 notice who may nonetheless assert such a defense as a basis for federal jurisdiction over this
16 case that Plaintiff seeks no recovery for injuries sustained as a result of conduct that meets the
17 three-prong *Boyle* test and constitutes actions of a federal officer sufficient to trigger
18 jurisdiction under 28 U.S.C. §1442(a)(1). Plaintiff specifically advises all defendants of its
19 position that such express, clear, and unequivocal disclaiming of claims implicating the
20 substantive *Boyle* defense, as well as any other claims that legitimately implicate 28 U.S.C.
21 §1442(a)(1), render any potential future removal of this case to federal court on one of these
22 clearly-disclaimed bases objectively unreasonable under *Martin v. Franklin Capital Corp.*, 546
23 U.S. 132 (2005).

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V. DAMAGES

A. As a proximate result of defendants' tortious conduct, Plaintiff Jerome Zetsche sustained pain, suffering, and disability in an amount not now known, but which will be proven at trial. Plaintiff Jerome Zetsche also sustained medical expenses and economic losses in an amount to be proven at trial. Plaintiff Carol Zetsche has sustained loss of consortium as a result of Jerome Zetsche's illness.

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VI. PRAYER FOR RELIEF

WHEREFORE Plaintiffs pray for judgment against the defendants and each of them as follows:

1. For general and special damages specified above, including pain, suffering, and disability, and loss of spousal consortium;
2. For medical and related expenses, and economic loss, all of which will be proven at the time of trial;
3. For punitive damages, to the extent applicable;
4. For Plaintiffs' costs and disbursements herein;
5. For prejudgment interest in an amount to be proven at trial; and
6. For such other relief as the Court deems just.

DATED this 29th day of October, 2021.

SCHROETER, GOLDMARK & BENDER

s/ Craig A. Sims

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