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Cape Town
Session 31.7 October 24, 9:30am

**U.S.** Asbestos Bankruptcy Trusts

Presented by Steven Kazan,
Managing Partner
Kazan, McClain, Satterley & Greenwood
A Professional Law Corporation

### **US Bankruptcy Trusts**

ABB Lummus	Combustion Eng.	Johns-Manville	Raytech
ACandS	Congoleum	J.T. Thorpe Inc.	T&N
Armstrong	DII – Halliburton	Kaiser Aluminum	THAN
Artra/Synkloid	DII – Harbison	Keene	Thorpe Insulation
Asarco	Eagle-Picher	Leslie Controls	US Gypsum/APG
Babcock & Wilcox	Federal Mogul	Narco	US Minerals
Brauer	Fibreboard	National Gypsum	Western MacArthur
Burns & Roe	Flexitallic	Owens Corning	W.R. Grace
C.E. Thurston	GAF/G-1	Plibrico	
Celotex	GM - Mechanics	Porter Hayden	
Christy Refractories	HK Porter	Quigley	

All Trusts have similar structures and plans to pay claims.

### Total Paid to claimants since inception

### Paid to claimants over \$21 billion

#### TOTAL AMOUNT PAID TO CLAIMANTS SINCE INCEPTION \*

	C.E. Thurston	\$ 25,811,700
	Delaware Trusts	\$ 10,800,000,000
	Eagle-Picher	\$ 694,300,000
	GM	\$ 430,587
	J.T. Thorpe Settlement Trust	\$ 112,732,050
	Johns-Manville	\$ 4,500,000,000
	Keene	\$ 22,405,990
	Leslie Controls	\$ 38,377,960
	Miscellaneous Small Trusts	\$ 299,488,566
	Narco **	\$ 130,000,000
	National Gypsum	\$ 375,978,056
	Raytech	\$ 21,961,707
	Thorpe Insulation Settlement Trust	\$ 84,670,700
	Verus Claims Services	\$ 2,825,769,912
	Western Asbestos Settlement Trust	\$ 1,463,822,547
1		

TOTAL PAID: \$ 21,395,749,775

<sup>\*</sup> as of 12.2013 or later

<sup>\*\*</sup> present est. value includes Evergreen Trust

# **Operating Bankruptcy** Trusts' Assets as of 12/31/2013

**Total current assets:** \$31,749,901,178

#### **OPERATING BANKRUPTCY TRUSTS' ASSETS** as of 12/31/2013

4001		20.004.240
ABB Lummus	\$	28,864,318
AC&S	\$	282,812,032
Armstrong	\$	1,952,816,891
Artra/Synkloid	\$	23,311,218
Asarco	\$	1,088,403,625
Babcock & Wilcox	\$	635,000,000
Brauer	\$	7,948,782
Burns & Roe	\$	143,543,762
CE Thurston	\$	34,422,737
Celotex	\$	526,779,393
Christy Refractories	\$	24,101,267
Combustion Eng.	\$	865,200,697
Congoleum	Ş	232,932,997
DII	Ş	2,094,168,901
Eagle-Picher	\$	379,517,873
Federal-Mogul *	\$	643,986,478
Fibreboard	\$	613,220,545
GAF/G-1	\$	557,227,428
GM - Mechanics	\$	228,797,294
Grace (W.R.)	\$	3,750,000,000
H.K. Porter	\$	37,278,146
Johns-Manville	\$	830,906,075
J.T. Thorpe Inc.	\$	145,509,428
Kaiser Aluminum	\$	682,450,724
Keene	\$	24,182,396
Leslie Controls USN	\$	40,878,541
Miscellaneous Small Trusts	\$	199,284,576
Narco	\$	2,173,000,000
National Gypsum	\$	311,966,075
Owens Corning	\$	1,057,921,525
PCC	\$	3,500,000,000
Plibrico	\$	118,418,920
Porter Hayden	\$	42,829,678
Quigley	\$	975,000,000
Raytech	\$	34,943,755
THAN	\$	449,025,346
Thorpe Insulation	\$	534,922,197
US Gypsum/APG	\$	1,945,478,878
Western MacArthur	, , , , , , , , , , , , , , , , , , ,	782,848,680
W.R. Grace	\$	3,750,000,000

**TOTAL CURRENT ASSETS IN** CONFIRMED BANKRUPTCIES: \$ 31,749,901,178

<sup>\*</sup> Federal-Mogul includes T&N, Flexitallic, and Ferodo

# Various Trusts Value of Mesothelioma claims

### Mesothelioma Values

Scheduled Value \$5,829,000, Paid \$924,000

Average Value \$7,793,000, Paid \$1,463,000

MESOTHELIOMA VALUES (in thousands of dollars)							
		SCHEDULED AVERAGE			MAXIN	MUM	
	Payment	Scheduled	Amount	Average	Amount	Maximum	Amount
Trust	%	Value	Paid	\$	Paid	\$	Paid
ABB Lumm	10%	25	3	60	6	400	40
ACan-	5.78%	150	9	220	13	550	32
ong	35%	110	39	131	46	400	140
ra/Synkloid	0.5%	275	1	320	2	700	4
Asarco	22%	170	37	280	62	900	198
Babcock & Wilcox	7.5%	90	7	120	9	400	30
Brauer	2.6%	125	3	145	4	250	7
Burns & Roe	25%	60	15	90	23	500	125
C.E. Thurston	25%	25	6	25	6	50	13
Celotex	6.5%	130	8	130	8	325	21
Christy Refractories	11.0%	90	10	100	11	300	33
Combustion Eng.	33%	75	25	95	31	400	132
Congoleum	12.5%	120	15	150	19	720	90
DII - Halliburton	35.6%	57	20	76	27	256	91
DII - Harbison	35.6%	137	49	182	65	610	217
Eagle-Picher	28%	7	2	7	2	7	2
Federal Mogul	9%	100	9	125	11	300	27
Fibreboard	7.6%	135	10	180	14	450	34
Flexitallic	6%	50	3	63	4	150	9
GAF/G-1	7.4%	155	11	225	17	450	33
GM - Mechanics	7.0%	175	12	220	15	525	37
HK Porter	3%	20	1	20	1	40	1
Johns-Manville	6.25%	350	22	350	22	750	47
J.T. Thorpe Inc.	45%	103	46	150	68	600	270
Kaiser Aluminum	35%	70	25	104	36	380	133
Keene	0.8%	125	1	125	1	125	1
Leslie Controls USN	5%	100	5	140	7	350	18
Narco	100%	75	75	200	200	1,000	1,000
National Gypsum	18%	23	4	45	8	180	32
Owens Corning	8.8%	215	19	270	24	650	57
PCC *	23.7%	175	41	200	47	500	119
Plibrico	1%	350	4	425	4	750	8
Porter Hayden	1.8%	350	6	400	7	750	14
Quigley	7.5%	200	15	225	17	450	34
Raytech	0.84%	125	1	125	1	125	1
N	6%	200	12	250	15	600	36
	30%	150	45	238	71	900	270
The lation	30.5%	315	96	598	182	2,392	730
UC GVDSDN	20%	155	31	225	45	450	90
TVDSUM	14%	10	1	10	1	10	1
Wom	14%	277	133	524	252	2,096	1006
Western		211	47	225	252 59		
W.R. Grace	200					450	117
TOTAL:		5,829	924	7,793	1,463	22,191	5,300
% Paid:		16	/0	1	9%	24	70

# Mesothelioma value for shipyard worker

	MESOTH	IELIOMA VA	LUES (in th	ousands o	of dollars)			
		SCHED	ULED	AVE	RAGE	MAXIMUM		
	Payment	Scheduled	Amount	Average	Amount	Maximum	Amount	
Trust	%	Value	Paid	\$	Paid	\$	Paid	
Babcock & Wilcox	7.5%	90	7	120	9	400	30	
Celotex	6.5%	130	8	130	8	325	21	
Combustion Eng.	33%	75	25	95	31	400	132	
DII - Halliburton	35.6%	57	20	<b>7</b> 6	27	256	91	
DII - Harbison	35.6%	137	49	182	65	610	217	
Eagle-Picher	28%	7	2	7	2	7	2	
Fibreboard	7.6%	135	10	180	14	450	34	
Johns-Manville	6.25%	350	22	350	22	750	47	
Leslie Controls USN	5%	100	5	140	7	350	18	
Owens Corning	8.8%	215	19	270	24	650	57	
PCC *	23.7%	175	41	200	47	500	119	
Raytech	0.84%	125	1	125	1	125	1	
TOTAL:		1,596	209	1,875	257	4,823	769	
* In Formation					1			

Scheduled Paid \$209,000

Average Paid \$257,000

# Mesothelioma value for construction worker

MESOTHELIOMA VALUES (in thousands of dollars)									
		SCHED	ULED	AVE	RAGE	MAXIMUM			
	Payment	Scheduled	Amount	Average	Amount	Maximum	Amount		
Trust	%	Value	Paid	\$	Paid	\$	Paid		
ACandS	5.78%	150	9	220	13	550	32		
Armstrong	35%	110	39	131	<b>4</b> 6	400	140		
Congoleum	12.5%	120	15	150	19	720	90		
Federal Mogul	9%	100	9	125	11	300	27		
GAF/G-1	7.4%	155	11	225	17	450	33		
Kaiser Aluminum	35%	70	25	104	36	380	133		
National Gypsum	18%	23	4	45	8	180	32		
T&N	6%	200	12	250	15	600	36		
US Gypsum/APG	20%	155	31	225	45	450	90		
W.R. Grace	26%	180	47	225	59	450	117		
TOTAL: 1,263 202 1,700 269 4,480						730			

Scheduled Paid \$202,000

Average Paid \$269,000

# **Bankruptcy Trusts: Approved Work Sites**

Over 115,000 North American sites and over 3,300 Foreign sites

### BANKRUPTCY TRUSTS APPROVED WORK SITES

	US/Canada	Foreign
	sites	sites
ABB Lummus	212	26
AC&S	1,495	=
Armstrong	3,391	=
Babcock & Wilcox	33,413	2,753
Burns & Roe	361	-
C.E. Thurston	84	:=:
Combustion Eng.	3,452	9 <del>=</del> 1
DII - Halliburton	4,254	3
DII - Harbison	413	=
Eagle-Picher	5,933	79
Fibreboard	8,966	1
Flexitallic	51	121
GAF/G-1	1,581	
HK Porter	1,286	
J.T. Thorpe Inc.	2,132	(=)
Kaiser Aluminum	695	=
Keene	1,271	3
Narco	895	1
National Gypsum	855	:=:
Owens Corning	21,952	230
Plibrico	1,303	i <del>=</del>
Porter Hayden	103	=
Raytech	139	:=:
T&N	644	:=:
Thorpe Insulation	654	:=:
US Gypsum/APG	11,580	278
US Minerals	1,729	=
Western MacArthur	3,650	=
W.R. Orace	2,775	:=
Total sites:	115,269	3,374

# Bankruptcy Trusts: Approved Ships

Over 19,000 approved ships

## BANKRUPTCY TRUSTS SITE LISTS WITH APPROVED SHIPS

	Approved Ships
Armstrong	111
Babcock & Wilcox	8,283
C.E. Thurston	57
Combustion Eng.	3,884
DII - Halliburton	291
DII - Harbison	11
Fibreboard	454
Flexitallic	96
J.T. Thorpe Inc.	2,916
Keene	112
Owens Corning	964
T&N	262
Thorpe Insulation	136
US Gypsum/APG	88
Western MacArthur	1,362
Total Ships:	19,027

## **US Bankruptcy Trusts**

- B&W admits to 2,753 foreign sites and 8,283 ships
- From Trust's web page, you can access links to:
  - How to file a claim
  - Access documents such as **B&W** approved site list, significant occupational exposure ratings
  - Understanding deficiencies
  - Payment Information



#### **BABCOCK & WILCOX ASBESTOS PERSONAL** INJURY SETTLEMENT TRUST

Claimant Relations | 800.708.8925

Websupport | 866.665.5790

Home | Contact | Log In to Trust Online



#### Babcock & Wilcox Asbestos Trust

#### **Current Payment Percentage**

The Babcock & Wilcox Asbestos Trust was formed in 2006 as a result of the bankruptcy of The Babcock & Wilcox Company, Diamond Power International, Inc., Babcock & Wilcox Construction Co., Inc., and Americon, Inc.

The Trust is organized to pay all valid asbestos personal injury claims against these defendants and certain related protected parties in accordance with the Trust Distribution Procedures ("TDP") approved by the bankruptcy court. The purpose of this website is to provide information to assist claimants and others in understanding the purpose of the Babcock & Wilcox Asbestos Trust and how the Trust resolves claims.

A copy of the TDP1 is available on this site. Information regarding claim filing procedures will indicate, among other things, when and how claims may be filed with the Trust.

<sup>1</sup>To the extent any content on the website conflicts with the TDP, the TDP controls.

#### Recent News

Updated B&W Approved Site SFP 2014

> The B&W Trust has updated the B&W Site List....

Revised B&W Trust TDP DEC

The B&W Trust has updated the TDP. Please take time...

Trust Online MAY

Enhancements

The attachment below contain Trust Online Enhancements...

Revised Alternative DEC Dispute Resolution (ADR)

> The B&W Trust has updated the ADR. Please take time..

Procedures

#### File a Claim

You must choose between two types of claim filing processes: Expedited Review and Individual Review claims.

#### Documents

The B&W Asbestos Settlement Trust web site has readily accessible files for you to download.

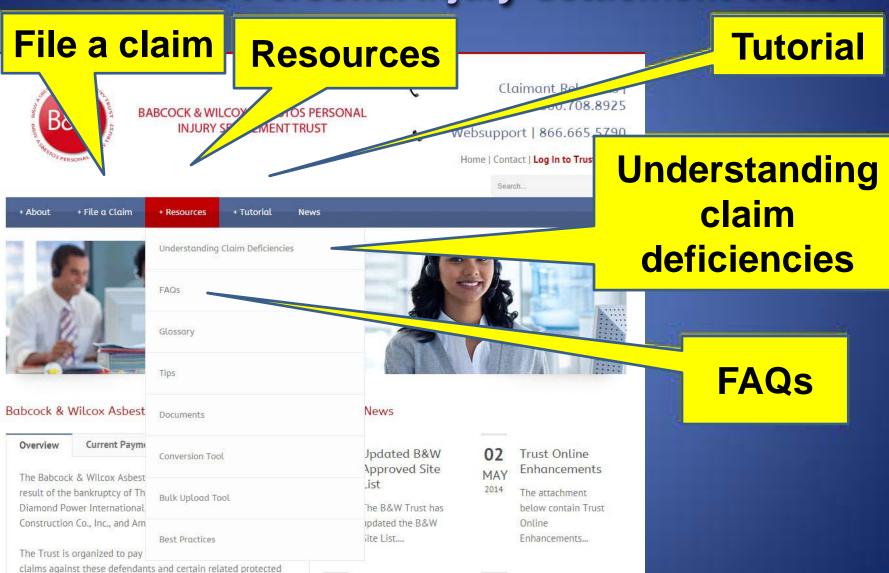
#### Deficiencies

View our page of claim deficiencies, and find out what's needed to resolve any issues you may be having with your claim.

#### About Trust Online

The Trust has developed an interactive claims management tool that allows access to claimant information as never before.

# Babcock & Wilcox Asbestos Personal Injury Settlement Trust



# Babcock & Wilcox Company – Asbestos Pl TDP

Asbestos PI Settlement
Trust Distribution
Procedures

EXHIBIT B TO PLAN - ASBESTOS PI TDP

THE BABCOCK & WILCOX COMPANY

ASBESTOS PI SETTLEMENT TRUST DISTRIBUTION PROCEDURES

Revised December 3, 2013

(P0819496.3 ) Revised 12/3/13

# Scheduled, Average and Maximum Values

Scheduled Value \$90,000

Average Value \$120,000

#### For US/Canada Claims

Scheduled Disease	<u>Sched</u>	<b>Scheduled Value</b>		<b>Average Value</b>		ximum Value
Mesothelioma (Level VIII)	\$	90,000	\$	120,000	\$	400,000
Lung Cancer 1 (Level VII)	\$	35,000	\$	45,000	\$	150,000
Lung Cancer 2 (Level VI)		None	\$	15,000	\$	50,000
Other Cancer (Level V)	\$	18,500	\$	22,500	\$	75,000
Severe Asbestosis (Level IV)	\$	35,000	\$	37,000	\$	150,000
Asbestosis/Pleural Disease (Level III)	\$	10,000		None		None
Asbestosis/Pleural Disease (Level II)	\$	5,000		None		None
Other Asbestos Disease -						
Cash Discount Payment (Level 1)	\$	250		None		None

# Babcock & Wilcox Company – Processing Foreign Claims

5.3(b) Individual Review Process

The liquidated value of all Foreign Claims payable under this TDP shall be established only under the PI Trust's Individual Review Process.

causing the pulmonary disease in question.

Asbestosis/

Pleural Disease (Level II)

\$5,000

(1) Diagnosis of a Bilateral Asbestos-Related Nonmalignant Disease, and (2) six months B&W Exposure prior to December 31, 1982, and (3) five years cumulative occupational exposure to asbestos.

Other Asbestos Disease (Level I -Cash Discount Payment) \$2

I -\$250

(1) Diagnosis of a Bilateral Asbestos-Related Nonmalignant Disease or an asbestos-related malignancy other than mesothelioma, and (2) B&W Exposure prior to December 31, 1982

#### 5.3(b) Individual Review Process.

5.3(b)(1) In General. Subject to the provisions set forth below, a B&W claimant may elect to have his or her PI Trust Claim reviewed for purposes of determining whether the claim would be cognizable and valid in the applicable tort system, even though it does not meet the presumptive Medical/Exposure Criteria for any of the Disease Levels set forth in Section 5.3(a)(3) above. In addition or alternatively, a B&W claimant may elect to have a claim undergo the Individual Review Process for purposes of determining whether the liquidated value of a claim involving Disease Levels IV, V, VII or VIII exceeds the Scheduled Value for the relevant Disease Level also set forth in said provision. However, except for claimants who allege Lung Cancer 2 – Disease Level VI and all claimants with Foreign Claims (as defined below), until such time as the PI Trust has made an offer on a claim pursuant to Individual Review, the claimant may change his or her Individual Review election and have the claim liquidated pursuant to the PI Trust's Expedited Review Process. In the event of such a change in the processing election, the claimant shall nevertheless retain his or her place in the FIFO Processing Queue.

The liquidated value of all Foreign Claims payable under this TDP shall be established only under the PI Trust's Individual Review Process. PI Trust Claims of individuals exposed in Canada (00)19853)

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Revised 12/3/13

### Babcock & Wilcox Company – Asbestos PI TDP

who were residents in Canada when such claims were filed shall not be considered Foreign Claims hereunder and shall be eligible for liquidation under the Expedited Review Process. Accordingly, a "Foreign Claim" is a PI Trust Claim with respect to which the claimant's exposure to an asbestoscontaining product for which B&W has legal responsibility occurred outside of the United States and its Territories and Possessions, and outside pf the Provinces and Territories of Canada.

In reviewing such Foreign Claims, the PI Trust shall take into account all relevant procedural and substantive legal rules to which the claims would be subject in the Claimant's Jurisdiction as defined in Section 5.3(b)(2)(B) below (including by reference to appropriate written expert or other evidence from the Claimant's Jurisdiction). The PI Trust shall determine the validity and/or value of a Foreign Claim, including whether the claim has been paid, satisfied, settled, released, waived or otherwise discharged. The PI Trust shall determine the liquidated value of valid Foreign Claims based on historical settlements and verdicts in the Claimant's Jurisdiction, the other valuation factors set forth in Section 5.3(b)(2)(B) below and any matrices and methodologies developed.

For purposes of the Individual Review process for Foreign Claims, the Trustees, with the consent of the TAC and the Future Claimants' Representative, may develop separate

Medical/Exposure Criteria and standards, as well as separate requirements for physician and other professional qualifications, which shall be applicable to all Foreign Claims channeled to the PI

Trust; provided however, that such criteria, standards or requirements shall not effectuate substantive changes to the claims eligibility requirements under this TDP, but rather shall be made only for the purpose of adapting those requirements to the particular licensing provisions and/or medical customs or practices of the foreign country in question.

In taking into account the relevant procedural and substantive legal rules of a foreign jurisdiction, the PI Trust may use reliable sources and data to develop methodologies for the PI Trust's use in evaluating the validity of and valuing the Foreign Claims with respect to such foreign

Accordingly, a "Foreign Claim" is a PI Trust
Claim with respect to which the
claimant's exposure to an asbestoscontaining product for which B&W has
legal responsibility occurred outside of
the United States and its Territories and
Possessions, and outside of the Provinces
and Territories of Canada.

...all relevant procedural and substantive legal rules to which the claims would be subject in the ant's Jurisdiction as defined in Se (h)(2)(B) below.

The PI Trust shall determine the liquidated value of Foreign Claims based on historical settlements and verdicts in the Claimant's Jurisdiction as well as the other valuation factors set forth in Section 5.3(b)(2)(B) below.

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Revised 12/3/13

examination and valuation process pursuant to Individual Review requires substantial time and effort, claimants electing to undergo the Individual Review Process may be paid the liquidated value of their PI Trust Claims later than would have been the case had the claimant elected the Expedited Review Process. Subject to the provisions of Section 5.8, the PI Trust shall devote reasonable resources to the review of all claims to ensure that there is a reasonable balance maintained in reviewing all classes of claims.

5.3(b)(2) Valuation Factors to Be Considered in Individual Review. The PI Trust shall liquidate the value of each PI Trust Claim that undergoes Individual Review based on the historic liquidated values of other similarly situated claims in the applicable tort system for the same Disease Level. The PI Trust shall thus take into consideration all of the factors that affect the severity of damages and values within the applicable tort system, including, but not limited to, (i) the degree to which the characteristics of a claim differ from the presumptive Medical/Exposure Criteria for the Disease Level in question; (ii) factors such as the claimant's age, disability, employment status, disruption of household, family or recreational activities, dependencies, special damages, and pain and suffering, (iii) evidence that the claimant's damages were (or were not) caused by asbestos exposure, including exposure to an asbestos-containing product or to conduct for which B&W has legal responsibility prior to December 31, 1982 (for example, alternative causes, and the strength of documentation of injuries); (iv) the industry of exposure; and (v) settlements, verdicts and the claimant's and other law firms' experience in the Claimant's Jurisdiction for similarly situated claims.

For these purposes, the "Claimant's Jurisdiction" is the jurisdiction in which the claim was filed (if at all) against B&W in the tort system prior to the Petition Date. If the claim was not filed against B&W in the tort system prior to the Petition Date, the claimant may elect as the Claimant's Jurisdiction either (i) the jurisdiction in which the claimant resides at the time of diagnosis or when

...and (v) settlements, verdicts and the claimant's and other law firms' experience in the Claimant's

Jurisdiction for similarly situated claims.

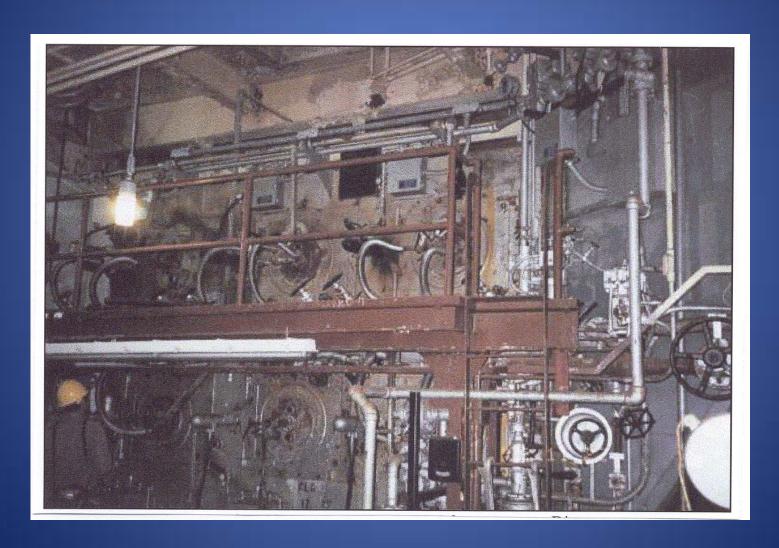
...Claimant's Jurisdiction (i) either the jurisdiction in which the claimant resides at the time of diagnosis or when the claim is filed with the PI Trust; or (ii) a jurisdiction in which the claimant experienced exposure to an asbestoscontaining product or to conduct for which B&W has legal responsibility.

## **Proving a Claim**

#### For a claim to be approved you must show:

- Exposure to company's product
- At a place where claimant worked
- Claimant's occupation when claimant worked with the product
- Time period Claimant worked with the product
- Asbestos-related Disease
- Who Claimant's dependents are
- Claimant's medical expenses and/or economic loss (optional)
- All supporting documentation must be in English or with certified translations

# Exposure to a company's product - B&W was a boiler manufacturer



# Trusts' Websites

ABB Lummus http://www.abblummustrust.org/
ACandS http://www.acandsasbestostrust.com/

Armstrong http://www.armstrongworldasbestostrust.com/

Artra/Synkloid http://www.artratrust.com/
Asarco http://www.asarcotrust.com/
Babcock & Wilcox http://www.bwasbestostrust.com/
Brauer http://www.brauertrust.com/
Burns & Roe http://www.burnsandroetrust.com/
C.E. Thurston http://www.thurstonasbestostrust.com/

Celotex http://www.celotextrust.com/
Christy Refractories http://www.christy-trust.com/
Combustion Eng. http://www.cetrust.org/

Congoleum http://www.congoleumtrust.com/
DII – Halliburton http://www.diiasbestostrust.org/
DII – Harbison http://www.diiasbestostrust.org/

Eagle Picher http://www.cpf-inc.com/epi-trust/epi-claims-resolution-procedures/

Federal Mogul http://www.federalmogulasbestostrust.com/

Fiberboard http://www.ocfbasbestostrust.com/

Flexitallic http://www.federalmogulasbestostrust.com/aboutus.asp

GAF/G-1 http://www.g-itrust.com/Resources.htm

GM http://mlc.mfrclaims.com/

HK Porter http://www.hkporterasbestostrust.org/

Johns Manville http://www.mantrust.org/
J.T. Thorpe Inc. http://jttstrust.com/

Kaiser Aluminum http://www.kaiserasbestostrust.com/
Keene http://www.cpf-inc.com/keene-trust/

Leslie Controls http://www.lesliecontrolsasbestostrust.com/

Narco http://www.narcoasbestostrust.org/

National Gypsum https://www.ngcbitrust.org/
Owens Corning http://www.ocfbasbestostrust.com/

Plibrico http://www.verusllc.com/plibrico/plibrico.htm

Porter Hayden http://www.porterhaydentrust.com/

Quigley http://www.quigleytrust.com/

Raytech http://www.cpf-inc.com/raytech-trust/

T&N http://www.federalmogulasbestostrust.com/aboutus.asp

THAN http://www.thanasbestostrust.com/

Thorpe Insulation http://www.tistrust.com/

US Gypsum/APG http://www.usgasbestostrust.com/

US Minerals https://www.claimsres.com/DocumentsUSM.aspx

Western MacArthur http://www.wastrust.com/

W.R. Grace http://www.wrgraceasbestostrust.com/

Questions? Please email me at: skazan@kazanlaw.com

Slides available at: www.kazanlaw.com/IMIG2014



### KAZAN, McCLAIN, SATTERLEY & GREENWOOD

A PROFESSIONAL LAW CORPORATION

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Helping Asbestos Victims Since 1974





With thanks to May Wong, Kazan Law's bankruptcy paralegal