

# DII Industries, LLC Asbestos PI Trust

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## TRUST UPDATE – October 1, 2018

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**Civil Investigative Demand:** The Trust recently received the attached civil investigative demand from the Department of Justice. As you will see, the demand instructs the Trust to produce information about settlement agreements between it and claimants, which may include information your clients submitted.

The Trust still is considering how it will respond to the demand. If you believe that the demand may affect claimants you represent, please take whatever actions you believe are necessary to protect their interests.

While it considers responses to the demand, the Trust temporarily has suspended issuing settlement offers and making claim payments, including supplemental payments. As a result, the Delaware Claims Processing Facility will not send Representation Acknowledgements in early October as previously scheduled.

The Trust will provide further updates when appropriate and in accordance with the Trust Distribution Procedures.

Civil Investigative Demand - Written Interrogatories

United States Department of Justice  
Washington, D.C. 20530

TO: DII Industries, LLC Asbestos PI Trust  
c/o Alan R. Kahn, Trustee  
230 Jack Leg Lane  
Bozeman, MT 59715

Civil Investigative  
Demand No. 18-610

**Serve on: Trustee or any person authorized to accept service of process for DII Industries, LLC Asbestos PI**


This Civil Investigative Demand is issued pursuant to the False Claims Act, 31 U.S.C. §§ 3729-3733, in the course of a False Claims Act investigation to determine whether there is or has been a violation of 31 U.S.C. § 3729. The focus of the False Claims Act investigation is whether the Medicare Program has been reimbursed in accordance with the Medicare Secondary Payer Act for payments made by asbestos settlement trusts including DII Industries, LLC Asbestos PI Trust.

Pursuant to the Definitions and Instructions included as **Attachment A**, this Demand requires you to provide answers to the written interrogatories included as **Attachment B** to the Federal Government. This is the original of the Demand; no copies have been served on other parties. The information and documents provided in response to this Demand may be shared, used, and disclosed as provided by 31 U.S.C. § 3733.

The answers to the attached interrogatories shall be submitted no later than twenty (20) days from the receipt of this Demand. Jeffrey Toll has been designated as a False Claims Act custodian in this matter. You must submit the answers to Mr. Toll at 175 N Street, N.E., Washington, D.C. 20002, or at such time and in such other places as may be agreed upon by Mr. Toll and you. Mr. Toll may be contacted at 202-305-2038, if you have any questions.

The interrogatories shall be answered separately and fully in writing under oath and also shall be submitted under a sworn certificate in the form printed in this Demand. If you object to any interrogatory, the reasons for the objection shall be stated with specificity.

Issued at Washington, D.C., this 12th day of Sept, 2018.



Michael D. Granston  
Director  
Commercial Litigation Branch

**FORM OF CERTIFICATE OF COMPLIANCE<sup>1</sup>**

I have responsibility for answering interrogatory numbers \_\_\_\_\_ in Civil Investigative Demand No. 18-610. I hereby certify that all the information required by the Civil Investigative Demand and in the possession, custody, control, or knowledge of the person to whom the Civil Investigative Demand is directed has been submitted. To the extent information has not been furnished, the information is identified and the reasons why the information was not furnished are set forth with particularity. Additionally, if any such information has not been produced because of a lawful objection, the objection to the interrogatory and the reasons for the objection have been stated. I certify under penalty of perjury that the foregoing interrogatory responses are true and correct.

Signature \_\_\_\_\_

Title \_\_\_\_\_

**SWORN TO** before me this \_\_\_\_ day of \_\_\_\_\_ 2018

\_\_\_\_\_  
NOTARY PUBLIC

<sup>1</sup> In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided for by 28 U.S.C. § 1746.

## Attachment A

### INSTRUCTIONS AND DEFINITIONS

#### A. Definitions

1. Unless specified otherwise, the term “the Trust” means DII Industries, LLC Asbestos PI Trust, any and all predecessors, successors, affiliates, subsidiaries, parent companies, branches, divisions, offices, units, officers, directors, employees, agents, and assigns.

2. The term “Trust Distribution Procedures” means the DII Industries, LLC Asbestos PI Trust Distribution Procedures, including all amendments and revisions thereof.

3. The term “Claimant” means any individual who has ever made a claim for reimbursement or other payment from the Trust relating to asbestos exposure.

4. The term “Settlement” means any agreement between the Trust and any Claimant to resolve the Claimant’s claim in whole or in part in exchange for reimbursement or payment of funds, including, without limitation, any payments made or agreed to be made to the Claimant under the terms of the Trust Distribution Procedures.

5. The term “Recipient” means the recipient of any funds transferred from the Trust pursuant to a Settlement, including the owner or trustee of any account that receives funds electronically or the individual or entity named on any check issued by the Trust.

6. The terms “and” and “or” shall be construed conjunctively or disjunctively so as to make each particular request inclusive rather than exclusive.

7. The terms “any” and “all” shall be construed conjunctively or disjunctively so as to make each particular request inclusive rather than exclusive.

8. The singular and plural forms of any word shall be construed interchangeably so as to bring within the scope of this Demand any document which might otherwise be construed as outside its scope.

#### B. Instructions

1. The relevant time period for each request is from January 1, 2009 through the date of service of this Civil Investigative Demand.

2. This Demand is continuing in nature. If you become aware of or acquire additional information that is responsive to these Interrogatories, you shall promptly supplement your responses.

3. For each Interrogatory and subpart thereof, you must respond separately and in writing. Your responses must identify all documents that you used, referenced, or relied upon in your written responses.

4. If you withhold any information responsive to any Interrogatory based on a claim of privilege or other objection: (a) furnish the basis for the assertion of the privilege or objection, (b) identify all individuals who could respond to the Interrogatory with regard to the information that is being withheld, and (c) set forth the general subject matter and the specific Interrogatory or Interrogatories to which each individual could testify.

## Attachment B

### INTERROGATORIES

- 1) For each Settlement between the Trust and a Claimant, use the attached template to provide the following information in an electronic searchable format:
  - a) **Claimant's Identifying Information**
    - i) first name
    - ii) middle name
    - iii) last name
    - iv) date of birth
    - v) social security number
    - vi) gender
    - vii) last known address
    - viii) last known phone number
    - ix) health insurance claim number (HICN)
    - x) Claimant's federal healthcare insurance program, if any, and corresponding beneficiary identifier
  - b) **Claimant's Legal Representative**
    - i) attorney(s)
    - ii) law firm(s)
    - iii) law firm address
  - c) **Claimant's Injuries**
    - i) highest disease level, as defined by the Trust Distribution Procedures, for which a claim was made
    - ii) highest disease level, as defined by the Trust Distribution Procedures, for which a claim was approved or payment was made
    - iii) date of first asbestos exposure
    - iv) date of last asbestos exposure
    - v) date of diagnosis
    - vi) all prior exposure sources
  - d) **Claim history**
    - i) date of claim submission to the Trust
    - ii) amount of claim submission to the Trust
    - iii) Did Claimant file a lawsuit naming the Trust or any entity whose asbestos-related liabilities have been assumed by the Trust?
  - e) **Settlement**
    - i) Settlement date
    - ii) Settlement payment amount
    - iii) Settlement payment date
    - iv) review process elected by Claimant (expedited, individual, or extraordinary)
    - v) Recipient of Settlement payment
    - vi) Recipient's social security number (for individuals) or tax identification number (for entities)
    - vii) Recipient's bank account number or trust account number

If a Settlement required the Trust to make multiple payments, provide responses to Interrogatory 1(e)(ii) – (vii) for each Settlement payment.

