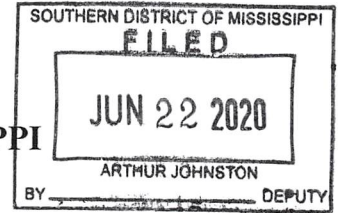


IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION



WILLIAM H. DURHAM, M.D.

PLAINTIFF

VERSUS

CAUSE NO.: 2:20-cv-112-KS-MTP

ANKURA CONSULTING GROUP, LLC  
and JOHN DOES 1-5

DEFENDANTS

COMPLAINT  
(JURY TRIAL REQUESTED)

COMES NOW, the Plaintiff, WILLIAM H. DURHAM, M.D. by and through undersigned counsel, and files this, his Complaint for Damages against the Defendants, ANKURA CONSULTING GROUP, LLC and presently unidentified defendants listed herein as John Doe Defendants 1-5. In support of said Complaint, Plaintiff would show unto the court the following, to-wit:

A. PARTIES

1. The Plaintiff, William H. Durham, M.D. (hereinafter "Dr. Durham" is a lifelong citizen of Mississippi and an adult resident of Hattiesburg, Forrest County, Mississippi.
2. The Defendant, Ankura Consulting Group, LLC (hereinafter "Ankura") is a foreign limited liability company formed in the state of Delaware, with its principal place of business being located in the District of Columbia at 2000 K ST NW FL 12, Washington, DC 20006-1809 and may be served with process of this court by serving its registered agent for process: The Corporation Trust Company, Corporation Trust Center 1209 Orange St., Wilmington, DE, 19801, or wherever it may be found in the time and manner allowed by law.

## **B. JURISDICTION AND VENUE**

3. The Eastern Division of the Southern District of Mississippi has subject matter jurisdiction over the Defendant(s) and is a proper court of venue, as the tort complained of herein happened in whole or in part in Forrest County, Mississippi.

4. This court in Mississippi has “specific” personal jurisdiction under Mississippi’s Long-Arm Statute MCA §13-3-57 over Defendant Ankura Consulting Group, LLC, a foreign non-resident LLC, that is not licensed to do business in Mississippi, but has done specific business in Mississippi by making sufficient contacts with the state of Mississippi from which the cause of action(s) complained of herein arose or occurred in whole or in part in Mississippi.

5. Defendant Ankura knew or should have known that if it wrongfully designed and/or conducted the subject audit of Dr. Durham, a known Mississippi resident and undertook business activities and conduct via agents in connection with doing business and/or committing a tort in whole or in part in this forum state, that it should have reasonably anticipated being haled into court here to defend a lawsuit as authorized by the Mississippi Long-Arm Statute; and given the contacts it had with Mississippi and/or persons from Mississippi mentioned herein below, they created constitutionally sufficient minimum contacts with the forum state of Mississippi to satisfy the Due Process Clause of the Fourteenth Amendment.

## **C. SUMMARY OF PLAINTIFF’S CAUSE OF ACTION**

6. Plaintiff Dr. Durham, as a qualified certified B-Reader, worked over 7 years building a successful Mississippi based B-Reader business of reading the chest x-rays of

exposed asbestos workers, who desired to submit claims administered by various asbestos trusts obligated to pay scheduled compensation to otherwise qualified injured workers with sufficient radiographic evidence of asbestos exposure. In particular, multiple Mississippi law firms representing asbestos exposed workers had regularly hired Dr. Durham for those many years to read their clients' chest x-rays to help them screen potential claimants to bring rightful asbestos claims in compliance with the criteria promulgated by the asbestos trusts. In doing so, Dr. Durham earned the good reputation of being a fulltime, hardworking, knowledgeable, conservative and high volume B-Reader. However, the "high volume" characteristic of Dr. Durham's B-Reader business drew attention to him and caused him to be targeted for an audit.

7. Based on information and belief the asbestos trust administrators identified Dr. Durham to undergo a B-Reader audit. Defendant Ankura, an auditing firm in Washington, DC, with a client/customer relationship with various asbestos trusts was hired to design and conduct the subject B-Reader audit of Dr. Durham. Incidentally, Defendant Ankura acquired the former auditing firm of ARPC, which had a long standing client/customer relationship with those same asbestos trusts.

8. The general theory of Plaintiff's case against Ankura is that once hired, Defendant Ankura was motivated to wrongfully design and/or conduct an audit process to "fail" Dr. Durham, by only reviewing a limited number of very specific chest x-rays of claimants previously read by Dr. Durham having only subtle low "1/0 profusion" radiographic findings of opacities (dust particles) in either the lower bilateral zones of the lungs only, or in both the bilateral lower and the middle lung zones, all the time knowing that due to

recognized “reader variability” at this low subtle level, its purposefully selected sample of chest x-rays could easily be reread differently in bad faith by its biased, employed auditing B-Reader #2, and thus, bring about an outcome by design, to purposefully “fail” Dr. Durham.

9. Ankura expected that it would likely please its regular asbestos trust customer if it made sure that Dr. Durham “failed” the subject audit because that outcome would foreseeably allow its customer to save a large sum of money by disqualifying legitimate new claims or placing payments on hold of the previously approved claims of hundreds if not thousands of asbestos exposed worker-claimants, whose claims had been supported by chest x-rays read by Dr. Durham over the years, and in this manner Ankura’s bad faith sham audit also put Dr. Durham’s B-Reading business and practice out of business, while not caring that he would suffer significant financial damages or injuries in Mississippi.

#### **D. FACTS GIVING RISE TO CAUSES OF ACTION**

10. At all times pertaining hereto, Defendant Ankura is a private for-profit company.

11. At all times pertaining hereto, Defendant Ankura, being a limited liability company has acted by and through its agents, employees, members and/or representatives in furtherance of its business objectives and that of its business clients and/or customers.

12. At all times pertaining hereto, Plaintiff William H. Durham, M.D. (hereinafter “Dr. Durham”) is a board certified internal medicine doctor licensed in the state of Mississippi and a B-Reader certified and re-certified since 2011 by NIOSH, the National Institute for Occupational Safety and Health, who is qualified and experienced to read

and interpret chest x-rays of the lungs for certain diagnostic purposes, including diagnosing workers with pulmonary asbestosis from asbestos exposure in the workplace.

13. During the years pertaining hereto, Dr. Durham was the only NIOSH Certified B-Reader in the state of Mississippi.

14. At all times pertaining hereto, Ankura was hired by a long standing asbestos trust customer, hereinafter "The Trust," to design and conduct an audit of Dr. Durham's ability to read or interpret chest x-rays submitted by asbestos claimants. In particular, Ankura selected for audit, the chest x-rays of 44 claimants, who had submitted claims for compensation for minimal "1/0 profusion" levels of pulmonary asbestosis or minimal levels of asbestos related lung disease, that had been read or interpreted by Dr. Durham.

15. Some of the audited chest x-rays initially read by Dr. Durham are from asbestos claimants, who were exposed to asbestos while working at Ingalls ship building in Pascagoula, Mississippi.

16. The said 44 claimants are all represented by attorneys, Sakalarios Blackwell and Schock of Hattiesburg, Mississippi, hereinafter "SBS," though some of them were previously initially represented jointly by SBS and the Saad law firm.

17. The subject 44 chest x-rays were read and interpreted in Hattiesburg, Mississippi by Dr. William H. Durham, as being positive for findings of minimally abnormal amounts of pneumoconiosis (asbestos dust in the lungs) with small irregular shaped opacities (dust particles) at a low subtle level of "1/0 profusion" of opacities either in the Bilateral lower lung zones only, or in both the bilateral lower and middle lung zones of the respective claimants' lungs, with the former lower zone only presentation at this low

subtle level, being much less common and known in the industry to be more difficult to interpret precisely.

18. However, of the subject 44 chest x-rays, Ankura outrageously selected a sample consisting of 22 of them having a low “1/0 profusion” level that is only in the bilateral lower lung zone. Whereas, a sample of chest x-rays including a 50% ratio of such findings is anything but random, rather it evidences an unrealistic wanton audit sample, that is disproportionately heavily made up of the “most subtle of subtle” findings. That is, one made up of an unreasonably inappropriate high number of chest x-rays depicting only a low “1/0 profusion” level of small irregular shaped opacities, that are only identified in the bilateral lower lung zones, rather than a more realistic sample mix of about 3-9% of them, which would be more representative of the body of radiographic findings of the cohort of chest x-rays of asbestos claimants encountered and read by Dr. Durham over the years.

19. In 2018, Ankura conducted an audit of Dr. Durham’s interpretation of the said 44 chest x-rays of specific asbestos claimants selected by Ankura for inclusion in the audit.

20. At all times pertaining hereto, the specific 44 chest x-rays in question belonged to the Mississippi law firm of SBS, Hattiesburg, MS.

21. The said Mississippi law firm of SBS had retained physical custody and digital access of the subject (44) chest x-rays in Hattiesburg, Mississippi.

22. At all times pertaining hereto, Defendant Ankura knew that Dr. Durham was a resident of Mississippi, that the corresponding ILO B-Reader Report Sheets were filled out in Mississippi by Dr. Durham, that the subject chest x-rays had been read in

Mississippi by Dr. Durham, that they were located or stored in Mississippi, that they were owned by Mississippi lawyers, who represented the claimants whose x-rays were being audited, and more importantly, because of the necessary steps involved to even have an audit, that the subject audit itself could not have been done at all without Ankura firstly, making numerous “contacts” with persons in Mississippi to obtain all of the x-ray evidence for the audit, then secondly, after all of the images had been obtained and digitally compiled on a thumb drive, Ankura needed to return the said radiographic evidence back to Mississippi, in particular to Dr. Durham with instructions for certain things to be done to mark upon the images on the thumb drive before, thirdly, Ankura needed Dr. Durham, while in Mississippi, to resend the thumb drive with marked x-ray images back to Ankura for the images to be finally reread by Ankura’s hired B-Reader.

23. At all times pertaining hereto, Ankura could carry out each step necessary to bring about the subject audit by using either direct employees of Ankura, or by using other persons, as its agents or representatives, including some of the attorneys of its asbestos trust customer that had hired Ankura to design and conduct the subject B-Reader audit of Dr. Durham complained of herein.

24. At all times pertaining hereto, Marla R. Eskin, an attorney was acting as an agent, dual agent, tacit agent and/or representative of Ankura, whenever she met with Dr. Durham, a Mississippi resident in New Orleans, sent or received text messages, emails, and letters to and/or from Dr. Durham while he was in Mississippi, wrote persons in Mississippi letters and email communications related to the subject audit of these select 44 chest x-rays and/or of Dr. Durham generally.

25. At all times pertaining hereto, Rachael A. Rowe, an attorney was acting as an agent, dual agent, tacit agent and/or representative of Ankura, whenever she met with Dr. Durham, a Mississippi resident in New Orleans, had phone calls, wrote and received letters and had email communications with persons in Mississippi related to the subject audit of these specific (44) chest x-rays and/or the audit of Dr. Durham generally.

26. At all times pertaining hereto, John Brophy Jr., a Senior Managing Director of Ankura (formerly with ARPC) was an agent, employee or representative of Ankura, whenever he communicated and/or met with persons of Mississippi, in particular, Dr. Durham in New Orleans on audit related topics, received a letter from Dr. Durham and/or otherwise acted on behalf of Ankura in connection with the subject audit of these specific 44 chest x-rays and/or the audit of Dr. Durham generally.

27. On or about June 22, 2018, after making several “contacts” with Mississippi and with the Plaintiff, a resident of Mississippi, Defendant Ankura decided that Dr. Durham had failed the subject B-Reader audit of the said 44 chest x-rays, that it designed and conducted.

28. On or about June 22, 2018, Defendant Ankura reported to The Trust, that Dr. Durham had failed its subject chest x-ray B-Reader audit by misreading or misinterpreting a material number of the said selected 44 chest x-rays of those specific asbestos claimants.

29. On or about June 22, 2018, attorney Marla R. Eskin wrote Sara Morris Schock, Esq. and Anthony Sakalarios, Esq. of SBS, Hattiesburg, MS to notify their law firm that after consultation with the Trusts’ experts, [i.e., Ankura] we have concluded that a



material number of the claims, where Dr. Durham found asbestos related disease do not indicate any disease at all. As such, The Trust can no longer accept reports from Dr. Durham. A copy of said letter was mailed to Dr. Durham in Mississippi. See **EXHIBIT “1,”** the “Notification Letter” dated June 22, 2018.

30. A copy of the said June 22, 2018, “Notification Letter” was sent to at least the following law firms located in Mississippi:

- a. Sakalarios, Blackwell and Schock, Hattiesburg, Mississippi;
- b. Hortman Harlow - Laurel, Mississippi;
- c. Chapman Law Firm – Clarksdale, Mississippi;
- d. Wilson Law Firm – Oxford, Mississippi; and
- e. Schilling Law Firm – Starkville, Mississippi.

31. The Plaintiff’s injury and damages occurred and resulted in Mississippi.

**E. CONTACTS WITH MISSISSIPPI BY ANKURA**

32. Once Ankura was hired to perform the subject audit, Ankura had to take various steps to perform its audit for compensation, many of which included purposely doing specific business in Mississippi by purposely making contacts with the state of Mississippi and/or persons known to be located in or from Mississippi by and through Ankura’s officers, agents, employees and/or representatives, including the following business activities:

- a. Ankura needed to obtain copies of the plain chest x-rays films from Mississippi of the claimants it selected to be audited based in part on the radiographic findings reported in Mississippi by Dr. Durham on the ILO B-Reader Report Sheets submitted by Mississippi lawyers on behalf of the respective claimants;

- b. To do so, Ankura had someone contact the Mississippi law firm that represented the claimants and owned or otherwise was the physical custodian in Mississippi of the said chest x-rays of its clients involved in the audit to request copies of them;
- c. The Mississippi law firm of SBS retrieved these specified plain chest x-rays films of their clients from storage in Hattiesburg, Mississippi to have them copied in Mississippi and/or retrieved them digitally and had them downloaded onto discs;
- d. The Mississippi law firm of SBS packaged and shipped copies of the specified plain chest x-ray films and/or discs from Mississippi, as directed;
- e. Upon receipt, Ankura had someone or a technology company convert the plain chest x-ray films into digital x-ray images;
- f. Ankura then had someone to download the digital version of all of the said chest x-ray films onto a thumb drive;
- g. Ankura had someone to mail or ship the new thumb drive of digital chest x-rays to the SBS law firm in Hattiesburg, MS, with a request that the Mississippi lawyers furnish and/or deliver it to Dr. Durham in Hattiesburg, Mississippi, together with written instructions for him to download and install a new software program that would allow the said digital chest x-rays on the thumb drive to be viewed and marked upon;
- h. The said letter of transmittal of the thumb drive to the SBS law firm located in Hattiesburg, MS also provided instructions to where (B-Reader #1) Dr. Durham in Hattiesburg, MS was to ship the thumb drive from Hattiesburg, MS, after it had been viewed and had the presence of any opacities circled or otherwise marked; and
- i. Upon its receipt from Mississippi, Ankura had to furnish the thumb drive consisting of 44 selected, now digitally formatted chest x-rays and marked upon to the auditing B-Reader #2, a person who was hired by Ankura to re-read the selected forty-four (44) chest x-rays previously read by B-Reader #1, Dr. Durham, the subject target of its audit.

33. At all times pertaining hereto, Defendant Ankura and others associated therewith knew or should have known that its *business activities* were being directed at *evidence*

*and residents of the forum state of Mississippi* because it knew and was fully aware of the following:

- a. That Dr. Durham was a Mississippi resident;
- b. That the forty-four chest x-rays previously read by Dr. Durham were in connection with the claims of forty-four claimants, who were all clients of a Mississippi law firm, whose attorneys were all Mississippi residents;
- c. That the subject forty-four x-rays were all possessed, stored and/or maintained in Mississippi and would have to be requested and retrieved from Mississippi;
- d. That all communications conducted by Ankura by and through its agents, employees, and/or representatives with Dr. Durham and the law firm of SBS would be made to persons located in Mississippi;
- e. That Dr. Durham's economic injury or damages arising from Ankura reporting its expected audit results to its asbestos trust customer that Dr. Durham had failed Ankura's B-Reader audit, would foreseeably happen, occur and/or likely result in Mississippi;
- f) That the law firms in Mississippi that had contracted with Dr. Durham to read their clients' x-rays would also suffer economic consequences or injury because they would have to pay the added expense for their clients to take another chest x-ray and/or to pay another different B-Reader to read a new chest x-ray of their client-claimants;
- g) That all those client-claimants who lived in Mississippi whom had previously had their claims approved by The Trust, but were still awaiting payment would also be damaged in Mississippi because their settlements would at best be prolonged due to delays involved in having to supplement their claims with the submission of newly obtained chest x-rays or the new report of a re-reading of the original x-ray by another B-Reader.

#### **F. CAUSE OF ACTION IN TORT**

34. Plaintiff re-alleges and incorporates by reference the allegations of Paragraphs 1 thru 33, as if fully set forth herein.

35. Upon request, B-Readers, including Plaintiff Dr. Durham are expected to cooperate with The Trust. Here, The Trust contracted with Defendant Ankura, an independent company to design and conduct the subject audit of Dr. Durham.

36. It necessarily follows that when B-Readers, including Plaintiff Dr. Durham are audited by Defendant Ankura, then Ankura owes Dr. Durham, the duty to properly audit him, *albeit* his readings of select chest x-rays by utilizing recognized NIOSH standards, guidelines and/or customary practices in the industry.

37. In 2018, Ankura conducted an audit of Dr. Durham's interpretation of the said 44 chest x-rays of specific asbestos claimants selected by Ankura for inclusion in the subject audit.

38. Ankura intentionally selected these particular chest x-rays for audit by reviewing the corresponding ILO B-Reader Report Sheets filled in by Dr. Durham on each chest x-ray he read and while purposely looking to select an unrealistic 22 of 44 or 50% of ones reporting out the presence of subtle minimal "1/0 profusion" evidence of opacities in only the two lower bilateral lung zones, because those could more readily be arbitrarily disputed by its biased auditing B-Reader #2, since the more subtle the findings are on x-ray, the more susceptible it is to "reader variability," and Ankura could use that characteristic to its advantage in callously bring about the "failed" outcome it wanted.

39. At all times pertaining hereto Ankura knows that B-Readers must be certified by NIOSH, the National Institute for Occupational Health and Safety to demonstrate competency.

40. At all times pertaining hereto, Ankura knows that The Trust has adopted NIOSH requirements, guidelines and standards for interpretation of workers occupational exposure to dusts and asbestos materials.

41. Ankura is familiar with the literature published by NIOSH informing B-Readers on how to read and interpret the presence of small irregular shaped opacities in the zones of the lungs.

42. In particular, Ankura knows that the published NIOSH literature includes recognition of the acceptance of “reader variability” among B-Readers at subtle levels of “1/0 profusion” of small opacities and states how differences of B-Reader opinions should be addressed and resolved with the use of a tie breaking B-Reader #3.

43. Ankura, also knows of the long standing custom and practice of The Trust in resolving chest x-ray reader variability situations, whenever the opinions of B-Reader #2 differs in the opinion of B-Reader #1 submitted in support of an exposed worker’s claim for compensation. That is, that the attorney for the worker-claimant is notified that he or she must get a new chest x-ray done for that particular claimant and have it re-read by a different B-Reader #3, thereby in essence allowing B-Reader #3 to break the tie.

44. Ankura owed Durham the duty to apply recognized standards, guidelines and/or long standing customs and practices of NIOSH and/or The Trust respectively in designing and conducting the said B-Reader audit of Dr. Durham.

45. Ankura negligently/gross negligently breached that duty owed to Dr. Durham by not properly using recognized standards, guidelines or long standing customs and

practices of NIOSH and/or The Trust respectively, in the manner that it arbitrarily designed and/or conducted the said B-Reader audit of Dr. Durham complained of herein.

46. Additionally, Ankura designed the audit in such a manner, so it could use for audit purposes the improperly chosen “select 44 audit sample” of chest x-rays out of thousands of chest x-rays that had been previously read by Dr. Durham to have them re-read by an “unidentified” biased B-Reader #2, who was chosen and paid by Ankura.

47. On February 2, 2018, when Dr. Durham returned the thumb drive after the digital version of the selected (44) x-rays had been viewed and marked, Dr. Durham also enclosed a comprehensive letter dated February 2, 2018 with Exhibits written by him that was co-addressed to Mr. John Brophy of Ankura. Among other things, Dr. Durham’s letter requested the identity of Ankura’s hired B-Reader (i.e. B- Reader #2) and requested an opportunity to meet with its B-Reader to discuss respective findings. See **EXHIBIT “2”** hereto, Dr. Durham’s letter of February 2, 2018, without its internal Exhibits.

48. On or about February 3, 2018, Defendant Ankura received via FedEx delivery, a copy of the said Durham letter with Exhibits dated February 2, 2018, that was co-addressed to Mr. John Brophy.

49. Nevertheless, Ankura has not been transparent here, in that it did not disclose to Dr. Durham the identity of the B-Reader #2, it hired to reread the selected chest x-rays in the audit, it did not give Dr. Durham an opportunity to discuss anything with its auditing B-Reader, nor did it disclose whether its hired B-Reader had “agreed” with any of Dr. Durham’s findings on any of the forty-four chest x-rays involved in the audit and if so, which ones.

50. Likewise, Ankura did not disclose to Dr. Durham the identity of which claimant's chest x-rays that its hired B-Reader #2 had "disagreed" with Dr. Durham's findings.

51. Ankura was not transparent about its audit, especially given the established acceptance by NIOSH of "reader variability" at the 1/0 profusion level among B-Readers and by declining Dr. Durham's letter-request to discuss same with its auditing B-Reader. That is, by its silence, Ankura wrongfully refused to provide the identity and/or allow Dr. Durham to meet or even discuss auditing B-Reader #2's findings and interpretations.

52. Ankura knew that a reported failure of an audit by a B-Reader would foreseeably result in the said B-Reader, i.e., Dr. Durham being banned by its asbestos trust customer.

53. Ankura knew that the banning of B-Reader Dr. Durham from substantially participating in the asbestos claims industry would likely result in law firms being notified by The Trust that none of their clients' claims would be considered and no payments would be made to them, if the submitted claims had used Dr. Durham to read their clients' chest x-rays.

54. On or about June 22, 2018, Defendant Ankura wrongfully decided that Dr. Durham had failed the subject B-Reader audit of the said 44 chest x-rays that it designed and conducted herein.

55. On or about June 22, 2018, Defendant Ankura wrongfully reported to its customer, The Trust that Dr. Durham had failed the subject chest x-ray B-Reader audit by reporting that he had misread or misinterpreted a material number of the said 44 chest x-rays of those specific asbestos claimants.

56. On or about June 22, 2018, Marla R. Eskin wrote Sara Morris Schock, Esq. and Anthony Sakalarios, Esq. of SBS, Hattiesburg, MS, to notify their law firm that after consultation with the Trusts' experts, [i.e., Ankura], we have concluded that a material number of the claims, where Dr. Durham found asbestos related disease do not indicate any disease at all. As such, The Trust can no longer accept reports from Dr. Durham. A copy of said letter was mailed to Dr. Durham in Mississippi. See **EXHIBIT "1,"** hereto the "Notification Letter" dated June 22, 2018.

57. At all times pertaining hereto, Ankura knew that if banned, the banning of Dr. Durham would likely result in Dr. Durham's Mississippi based B-Reader business being significantly damaged financially because it was foreseeable that lawyers and law firms would no longer hire and pay Dr. Durham to read the chest x-rays of their respective clients for the purpose of submitting asbestosis claims and/or to perform other asbestos claim functions for which he was experienced and qualified, such as, Causation Medical Exams and asbestos Cancer Link Letters.

58. As a result, despite planning on continuing to work as a B-Reader in the asbestos claim industry until 2032, multiple Mississippi law firms and others stopped using and paying Plaintiff Dr. Durham, as a B-Reader to read and interpret chest x-rays and as a board certified internal medicine doctor for other asbestos claim functions, including performing Causation Medical Exams of asbestos exposed workers and preparing asbestos Cancer Link Letters.

59. Thus, Dr. Durham has suffered significant past loss economic injuries or damages in Mississippi and he is expected to continue to suffer significant present and future loss



economic injuries or damages in Mississippi until 2032, when funding to asbestos claimants is expected to conclude, due to him being banned by The Trust, as a proximate result of Ankura's wrongful auditing process and wrongful reporting essentially that Dr. Durham had failed the B-Reader audit, that it wrongfully designed and conducted.

60. The foregoing acts and omissions of negligence/gross negligence are demonstrated by Ankura's wrongful design of said B-Reader audit process, including that:

- a. Of the subject 44 chest x-rays, it outrageously selected a sample consisting of 22 of them having a low "1/0 profusion" level of small irregular shaped opacities that is only in the bilateral lower lung zone. Whereas, a 50% ratio of such, evidences an unrealistic and wanton audit sample, that is disproportionately heavily made up of the "most subtle of subtle" findings, rather than a more realistic sample mix of about 3-9% with said subtle result findings that is more representative of the body of radiographic findings of the cohort of chest x-rays of asbestos claimants encountered and read by Dr. Durham over the years;
- b. It hired an Ankura-biased auditing B- Reader #2;
- c. It did not adhere to the NIOSH standard and guideline recognizing "reader variability" at this low profusion level of opacities and how to resolve conflicting reads between B-Readers #1 and #2, by using a 3<sup>rd</sup> B-Reader to break the tie;
- d. Alternatively, it did not follow the Trust's long standing practice and custom of having the claimant's attorney have his client's chest x-ray, whenever questioned re-read by a 3<sup>rd</sup> B-Reader to break the tie;
- e. It callously wrongfully reported out that Dr. Durham had failed its audit; and/or
- f. In other ways to be learned during discovery herein.

61. As a proximate result of the acts or omissions of negligence/gross negligence described in the preceding paragraphs, Plaintiff William H. Durham, M.D. has suffered compensatory damages in the form of past loss earnings for the last two years in the

approximate amount of \$2,000,000, and future loss earnings of approximately \$12,000,000 for the next 12 years until 2032, that are catastrophically injurious to his Mississippi based B-Reader business, as well as to his asbestos related internal medicine practice of performing Causation Medical Examinations of exposed workers and preparing asbestos Cancer Link Letters, even though Dr. Durham was never “audited” in those practice areas. As such, Plaintiff is entitled to recover compensatory damages in the approximate amount of \$14,000,000 or such amount as determined by the jury.

62. Under Mississippi substantive law, in addition to compensatory damages, the court may allow the jury to consider awarding exemplary and/or punitive damages, where the jury may find, as we have here, that the foregoing negligent acts or omissions by Ankura in the manner that it wrongfully designed and/or conducted the B-Reader audit of Dr. Durham herein is associated with intentional wrongs, abuse, callousness, insult, malice, an utter disregard for the rights of others or gross negligence, such that in addition to the right to recover compensatory damages to make him whole, Plaintiff Durham is also entitled to recover attorney fees and an amount of punitive damages to be determined by the jury necessary to punish the wrongdoer, Ankura, after having considered the evidence of Ankura’s net worth and determines an amount that is sufficient to reward the plaintiff for bringing the defendant to justice and to serve as a deterrent to others similarly situated.

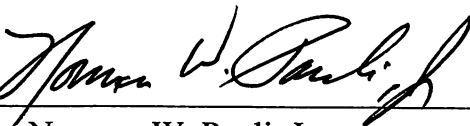
#### **G. PRAYER FOR RELIEF**

WHEREFORE, premises considered, Plaintiff William H. Durham, M.D., prays that this court enters judgment against the Defendant, Ankura Consulting Group, LLC, in

an amount in excess of the jurisdictional minimums of this Court to be determined by the jury for all compensatory and punitive damages for which he is entitled to recover, for attorney fees, for all costs of this litigation, post judgment interest, and for any other relief deemed proper.

THIS, the 22nd day of June, 2020.

Respectfully Submitted,  
WILLIAM H. DURHAM, M.D., Plaintiff

By:   
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Attorney for Plaintiff

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