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To: Group All
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Subject: Wall Street Journal article on the Kananian case

Yesterday, many of you may have seen or heard about an article in the Wall Street Journal on the Kananian case. The article was inaccurate, designed to appeal to the business community and sell papers, and was highly critical of our firm and personnel. I would like to set the record straight.

In the Kananian case, we submitted a bankruptcy claim to the Manville trust. The referral firm of Early, Ludwig & Sweeney submitted bankruptcy claims for several other defendants. In the course of preparing for trial, it was noted that the Manville claim may have been technically inaccurate in describing Mr. Kananian's work and the length of time of his exposure. A clerk formerly employed by Brayton Purcell had checked a few of the wrong boxes on the claim form, the primary difference being whether he was a shipyard worker, or in the military and simply present on a ship where he was exposed to asbestos while on board the ship at a shipyard. We didn't feel this difference would make any difference in how Manville evaluated the claim, but out of an abundance of caution, submitted an amended claim form to the Manville Trust with the right boxes checked and correct exposure information. We told Manville to let us know if the changes made any difference in their evaluation of the claim.

The supporting documentation for the claim was our basic interrogatory responses and deposition testimony of Mr. Kananian before he died from mesothelioma and the documentation that was attached to the claim form did not change. As we suspected, Manville did not find anything wrong with the amended claim. Lorillard, the supplier of asbestos-containing filters on their Kent cigarettes, jumped on this amended claim form and started leaking partial information to the press indicating we were submitting false claims to bankruptcy trusts. An initial article was published in Forbes some time ago, and this article is a follow up of sorts in the Wall Street Journal.

As to their specific allegations:

1. Submitting multiple bankruptcy claims, and going after more than one defendant in a lawsuit, is not "double dipping" but rather, to not do so would be malpractice. Each defendant is only responsible for their share of some elements of damages, and if you don't pursue everyone who was responsible, the client does not end up with a complete recovery. Mesothelioma, and all asbestos related diseases, are caused by the total exposure to asbestos an individual receives in a lifetime. It is always the result of multiple exposures by multiple defendants, including in some cases the Kent Micronite filter.
2. We did not just file claims against Lorillard in a wrongful death case. They were a defendant, along with many other responsible defendants, in the personal injury case filed while Mr. Kananian was alive.
3. We have not told different stories to different trusts, and the supporting documentation we used for the Manville claim is the same information filed in the third party lawsuit.
4. Although Lorillard threatened to turn this over to the Justice department if we did not dismiss the case (an improper attempt to have us dismiss the case), we have not been contacted by the Justice department, are aware of no such investigation, and in fact are convinced that if there was any investigation we would be cleared of any wrongdoing.
5. We have submitted a motion to withdraw as counsel and it has been granted. Lorillard has successfully orchestrated numerous depositions and motions regarding the information contained within the submitted claim forms to delay the trial and take the focus off their conduct, and the product they sold that has killed or injured thousands of people. The trial date has twice been continued while all of this was litigated. We felt, and feel, that the Kananian's best interests would be served by removing this issue from their trial, and eliminating further discovery motions, writs and appeals by Lorillard so the Kananian family members can finally get this case to trial in early 2007. As Jack Kananian informed the court at the hearing on our motion to withdraw, justice delayed is justice denied.
6. The overwhelming majority of the time spent on these allegations has not related to any improper bankruptcy claim submission, but rather the timetable relating to when Brayton Purcell attorneys determined that an amended claim form would be submitted and when it was actually submitted.

We continue to specially appear on Lorillard's motions to dismiss the case and to disqualify us as counsel.

I have full confidence in the Bankruptcy department, and every other member of the firm, and that we practice honestly and ethically while zealously advocating on behalf of our clients. It is

unfortunate that sometimes reporters, in an attempt to write a sensational story, don't take the time to check their facts or choose to ignore facts which don't fit their story line. As soon as we determine what the court will allow us to say in response, we will be sending a rebuttal to this article.