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9 and The Mandelbrot Law Firm

10 UNITED STATES BANKRUPTCY COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 LOS ANGELES DIVISION

13 In re

14 J.T. THORPE, INC

15 Debtors

) Case No. LA 02-14216-BB

) Chapter 11

) Related Adversary Case No. 2:12-ap-  
16 02182-BB (closed)

17 ) **BENEFICIARIES REQUEST FOR**  
18 ) **JUDICIAL NOTICE**  
19 ) **RE OBJECTION OF THE UNITED**  
20 ) **STATES TRUSTEE TO DEBTORS'**  
21 ) **MOTION FOR AN ORDER**  
22 ) **APPOINTING FUTURES ASBESTOS**  
23 ) **CLAIMANTS REPRESENTATIVE;**  
24 ) **J.T. THORPE, INC'S FUTURE**  
25 ) **REPRESENTATIVE GARY FERGUS**  
26 ) **CONFLICTS OF INTEREST,**  
27 ) **MISAPPROPRIATION OF TRUST**  
28 ) **FUNDS, IMPROPER DISCLOSURES**

) 255 E. Temple St.  
Los Angeles, CA 90012

) **Judge: Honorable Sheri Bluebond**

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In re J.T. Thorpe Inc., Case No LA 02-14216-BB, Adv. Proc. No. 2:12-ap-02182-BB  
REQUEST FOR JUDICIAL NOTICE REGARDING UNITED STATES TRUSTEE OBJECTION OF  
APPOINTMENT OF FUTURES REPRESENTATIVE; TRUSTEE STEPHEN SNYDER  
FRAUD/GARY FERGUS FRAUD AND IMPROPER DISCLOSURES

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**REQUEST FOR JUDICIAL NOTICE**

J.T. Thorpe, Inc. Settlement Trust Beneficiaries, Michael J. Mandelbrot and the Mandelbrot Law Firm request that the Court take judicial notice pursuant to Federal Rule of Evidence 201 of the following documents, papers, and records:

1. Objection of the United States Trustee to Debtors’ Motion for an Order Appointing Lawrence Fitzpatrick as Representative for Future Asbestos Claimant filed September 26, 2018 (Case No. 18-27963, United States Bankruptcy Court, District of New Jersey).  
**Relevance** – Like Lawrence Fitzpatrick in the aforementioned Briefs, Managing Trustee Stephen Snyder and Futures Representative Attorney Gary Fergus are former asbestos defense attorneys with an interest in the Trust and relationships with other Fiduciaries of the Trust. Like Fitzpatrick, Fergus and Snyder filed false and misleading Declarations before this Court to gain employment (and thus engage in favoritism/fraud) with regards to the J.T. Thorpe, Inc. Settlement Trust. Snyder and

1 Fergus, in bad faith and to misappropriate funds: 1) Provided insufficient disclosures  
2 regarding their prepetition employment with Debtors; 2) Held a personal financial  
3 interest in the outcome of the Plan, 3) Had extensive dealings with attorneys for current  
4 asbestos claimants (such as Mandelbrot); and failed to disclose conflicts arising from  
5 his employment by post-bankruptcy asbestos trusts, such as the Western Asbestos  
6 Settlement Trusts and Thorpe Insulation Settlement Trusts. Snyder and Fergus were  
7 precluded from employment with the J.T. Thorpe, Inc. Trust as “interested parties.”  
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9 2. Opposition to Emergency Motion for Order to Permit Counsel for Deceased Futures  
10 Representative to Participate on behalf of the Office of the Futures Representative dated  
11 January 11, 2018 filed in Case Nos. LA 02-14216-BB and LA 07-19271-BB (a true and  
12 correct copy of which is attached hereto as Exhibit 3). Relevance: Details Fiduciary  
13 Gary Fergus’ misappropriation of Beneficiary funds, insider dealing and fraud. Also put  
14 presiding Judge on “Notice” of Fergus’ fraud before the Court.  
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16 3. Pages from the Western Asbestos Trust Annual Report (2004) and J.T. Thorpe  
17 Settlement Trust Annual Report (2006) detailing improper payments to Gary Fergus  
18 and Steven Snyder (both worked at the Brobeck Firm and Morgan Lewis & Bockius  
19 prior to employment by the Trusts. **Relevance:** Has Snyder and Fergus provided this  
20 information about their former employment and the “interest” in the Trust, each would  
21 have been precluded from employment.  
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23 4. The “Objection-Tenth Annual Report and Accounting” 2014 *In re: Western Asbestos*  
24 *Company*, Case No. 13-31914, U.S. Bankruptcy Court for the Northern District of  
25 California on June 9, 2014 (a true and correct copy of the Notice is attached hereto as  
26 Exhibit 9). Relevance: Extensive detail of J.T. Thorpe, Inc. Fiduciary fraud and gross  
27 mismanagement of Trust funds.  
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1 **II. DISCUSSION**

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3 **A. The Judicial Notice and its Relevance to the Beneficiaries, Trustees and**  
4 **Fiduciaries of the J.T. Thorpe, Inc. Settlement Trust**

5 Since the confirmation of the J.T. Thorpe, Inc. Settlement Trust, insider dealing, fraud,  
6 bad faith and the misappropriation and mismanagement of J.T. Thorpe, Inc. Trust funds has  
7 depleted the assets of the J.T. Thorpe, Inc. Settlement Trust. On September 13, 2018, the United  
8 Department of Justice filed a Statement of Interest in Case No. 16-31602 (JCW) which  
9 *specifically referenced* fraudulent claims filed by J.T. Thorpe Trust Advisory Committee  
10 Chairman Alan Brayton. The Justice Department welcomed reporting of asbestos trust fraud and  
11 mismanagement. Extensive fraud and ‘gross’ mismanagement and misappropriation of J.T.  
12 Thorpe Beneficiary funds has existed at this Trust since its confirmation. This request for  
13 Judicial Notice is relevant as it is reasonably calculated to inform the Court, the Justice  
14 Department and all Trust Fiduciaries of extensive J.T. Thorpe, Inc. fraud.

15 Additional Relevance relates to Federal Rules of Civil Procedure Rule 60. Relief from a  
16 Judgment or Order. A final judgment currently exists in 2:12-ap-02182-BB (J.T. Thorpe v.  
17 Michael J. Mandelbrot and the Mandelbrot Law Firm). Under Federal Rule of Civil Procedure  
18 60(b)(6), this Court may relieve a party of its final judgment, order, or proceeding due to “fraud  
19 (whether previously called intrinsic or extrinsic), misrepresentation (i.e. Stephen Snyder, Gary  
20 Fergus, Sara Beth Brown and other Trust Fiduciaries), or misconduct by an opposing party” and  
21 various other reasons (see Rule 60(b)(1-6), which are all applicable in the adversary proceeding).  
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23 **B. Legal Authority for Taking Judicial Notice**

24 Paragraph (b)(2) of Rule 201 states in part that “[t]he court may judicially notice a fact  
25 that is not subject to reasonable dispute because it: . . . can be accurately and readily determined  
26 from sources whose accuracy cannot reasonably be questioned.” MANDELBROT seeks judicial  
27

1 notice of legally filed documents and facts which provide extensive evidence of Trustee and  
2 “interested” party fraud, conflicts of interest, Judicial misconduct, favoritism, and  
3 mismanagement of Trust funds that can be readily determined from the attached documents.  
4 Each Fiduciary in the J.T. Thorpe, Inc. filed a false and misleading Declaration before this Court  
5 in order to gain employment.

6 This Court regularly takes judicial notice of facts from court documents. “[T]he most  
7 frequent use of judicial notice of ascertainable facts is in noticing the content of court records.”  
8 *Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989). Accordingly, this Court has  
9 held that it “may take notice of proceedings in other courts, both within and without the federal  
10 judicial system, if those proceedings have a direct relation to matters at issue.” *U.S. ex rel.*  
11 *Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992); *cf.* Fed.  
12 R. App. P. 32.1(b) (instructing parties to submit a copy of an “opinion, order, judgment, or  
13 disposition” unavailable on publicly accessible electronic databases). Records subject to judicial  
14 notice include “the records of an inferior court in other cases.” *United States v. Wilson*, 631 F.2d  
15 118, 119 (9th Cir. 1980). MANDELBROT seeks judicial notice of documents from proceedings  
16 that are directly relevant to the fraud, judicial bias, favoritism, Fiduciary false declarations, and  
17 misappropriation of funds before this Court and in the adversary proceedings.

### 18 III. CONCLUSION

19 For these reasons, the Court shall accept the filing of this Judicial Notice and provide the  
20 same to the Department of Justice and United States Trustee.  
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26 DATED: this 2nd day October 2018

MANDELBROT LAW FIRM

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By: /s/ Michael J. Mandelbrot  
Michael J. Mandelbrot  
Appearing for Defendants  
Michael J. Mandelbrot and  
the Mandelbrot Law Firm